Prohibits any charitable contribution tax deduction for out-of-pocket expenditures made by any person on behalf of a tax-exempt organization if the expenditure is made for the purpose of influencing legislation.

H.R. 13689. May 11, 1976. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir in Indiana.

HOUSE JOINT RESOLUTIONS

H.J. Res. 951. May 13, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Day."

H.J. Res. 952. May 13, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning on November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 953. May 17, 1976. Post Office and Civil Service. Designates October 1, 1976, as "National Coaches' Day."

H.J. Res. 954. May 17, 1976. House Administration. Authorizes the American Hungarian Bicentennial Monument, Incorporated, to erect a memorial in honor of the late Colonel Michael Korvats de Fabrici in the District of Columbia.

H.J. Res. 955. May 18, 1976. Merchant Marine and Fisheries. Provides for the identification of foreign enterprises engaged in commercial whaling.

H.J. Res. 956. May 18, 1976. Post Office and Civil Service. Designates March 13 to 19, 1977, as "National Community Health Week."

H.J. Res. 957. May 18, 1976. Post Office and Civil Service. Designates March 13 to 19, 1977, as "National Community Health Week."

H.J. Res. 958. May 18, 1976. Post Office and Civil Service. Authorizes and directs the President to issue a proclamation designating the week of October 10 through 16, 1976, as "Native American Awareness Week."

H.J. Res. 959. May 19, 1976. Government Operations. Provides for the establishment of an Office of Hispanic Affairs in each department and agency of the executive branch which shall participate in all policy planning and development for all programs.

Requires the Secretary of Commerce to establish a Hispanic Information Clearinghouse.

H.J. Res. 960. May 20, 1976. Post Office and Civil Service. Designates the song, "America the Beautiful" as the "Bicentennial Hymn for 1976."

HOUSE RESOLUTIONS

H. Res. 1186. May 11, 1976. Rules. Creates a select House committee on professional sports to conduct an inquiry into the need for legislation with respect to professional sports.

H. Res. 1187. May 11, 1976. Sets forth the rule for the consideration of H.R. 12945.

H. Res. 1188. May 11, 1976. Sets forth the rule for the consideration of H.R. 12972.

H. Res. 1189. May 11, 1976. Sets forth the rule for the consideration of H.R. 13179.

H. Res. 1190. May 12, 1976. Sets forth the rule for the consideration of H.R. 6810.

H. Res. 1191. May 13, 1976. Sets forth the rule for the consideration of H.R. 12677.

H. Res. 1192. May 13, 1976. Sets forth the rule for the consideration of H.R. 12679.

H. Res. 1193. May 17, 1976. International Relations. Directs the Secretary of Defense to furnish to the House of Representatives information available to him relative to the extent of Cuban or other foreign military or paramilitary presence in the Republic of Panama or in the Panama Canal Zone.

H. Res. 1194. May 17, 1976. International Relations. Expresses the support of the House of Representatives for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address at Lusaka, Zambia, on April 27, 1976.

SENATE—*Friday, June 4, 1976*

(Legislative day of Thursday, June 3, 1976)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Great God, Lord of all men and nations, we thank Thee for this land so fair and free; for its worthy aims and noble purposes, for its instruments of governments, its homes, its churches, and its schools. We are thankful for people who have come to our shores with customs and accents to enrich our lives. Thou hast led us in the past, forgiving sins, correcting mistakes, confirming the right and the good. Lead us in days to come. Give us a voice to praise Thy goodness in this land of living men, and a will to serve Thee now and always, through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 4, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD B. STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of Thursday, June 3, 1976, be approved.

Mr. ALLEN. Mr. President, reserving the right to object, we are still in the same legislative day as we were in yesterday, and my objection at this time to dispensing with the reading of the Journal would not cause the Journal to be read. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Chair notes that the objection was to the approving of the Journal, rather than the reading of the Journal.

Mr. ALLEN. What did the Chair say?

The ACTING PRESIDENT pro tempore. The Chair observes that the objection noted was as to the approval of the Journal, as opposed to the reading of the Journal.

Mr. ALLEN. No, the Senator from Alabama objected to dispensing with the reading of the Journal of yesterday.

Mr. ROBERT C. BYRD. Mr. President, I did not make that request.

Mr. ALLEN. I object to the reading being dispensed with or the approval, because the legislative day is the same as yesterday. I objected to the request.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. For the record, to make the record clear, I did not ask to dispense with the reading of the Journal, but for the approval of the Journal.

The ACTING PRESIDENT pro tempore. The Chair has so stated.

Mr. ALLEN. I object to the approval of the Journal.

The ACTING PRESIDENT pro tempore. The objection is noted.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 12 o'clock today, or until the end of morning business, whichever comes later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. HELMS. I yield on behalf of the minority.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

A DIALOG ON FREEDOM AND INTELLIGENCE

Mr. MORGAN. Mr. President, I was fortunate, during my first year of service to the United States as a Senator, to be appointed a member of the Senate Select Committee on Intelligence Activities. I regard the accomplishments of that committee as some of the most important work ever undertaken in the Congress concerning the rights and civil liberties of American citizens. Recently, in a significant display of support for the work of the committee, the full Senate followed through on one of the central recommendations of the committee and established a permanent committee to oversee the activities of this Nation's intelligence agencies. I was appointed to that committee and look forward to continued service in that general area.

I feel strongly that the new committee, by increasing the accountability of intelligence agencies to the Congress, will make them able to more effectively perform their vital functions while at the same time insure that the principles of freedom on which this country was

founded will be held in high regard by those agencies.

The committee conducted many public hearings during its investigation, with some of them being televised nationally. While these hearings and the investigation itself necessarily focused on past abuses of the intelligence agencies, there were several themes and undercurrents present which I feel, because of their subtle nature, need to be reemphasized to the American people. The revealing of past abuses of agencies such as the FBI and CIA to the citizens of our Nation was a relatively simple matter once the abuses had been discovered. Explaining the significance of the abuses, as they relate to the sustenance of our democratic way of life, is a far more difficult task. I make this statement after a careful review of the hundreds of letters I received during the course of the investigation, conversations with my constituents and citizens of other States, and upon determining a general atmosphere I found exhibited by the personnel of the agencies the committee was investigating.

In an effort to increase the awareness of the American people of the functioning of our intelligence agencies and as a means of developing conversation and dialog on the interrelationship of those activities and the inherent rights of American citizens I intend to, during the month preceding our celebration of our 200th anniversary as a nation, enter into the CONGRESSIONAL RECORD some of my thoughts on what I feel are significant themes which were present during the course of the select committee's investigation and which in all likelihood will reappear during the work of the Oversight Committee.

Just as the committee's investigation revealed thousands of abuses of constitutionally guaranteed rights of American citizens committed by intelligence agencies over the last 40 years, the work of the committee also unequivocally demonstrated our need for, and the importance of, an effective intelligence-gathering capability. The recognition of this need is a prerequisite to any discussion of past actions taken by the members of our intelligence community.

The Central Intelligence Agency was established in the wake of World War II and after analyses of information known to various of our military branches indicated that had the information they possessed been centrally organized and evaluated we would have known in advance of the Japanese attack on Pearl Harbor. Thus, the purpose of establishing the CIA was to provide for, in the words of our Declaration of Independence, a more effective "common defense" of our Nation. There should be no argument among. American citizens, despite present efforts to ease world tensions, that a strong defense is an absolute prerequisite to our continued existence as a nation.

Similarly, the Federal Bureau of Investigation developed its reputation as one of the most effective law enforcement agencies in the world by enforcing the Federal criminal laws of our country, thereby protecting the citizen and the Nation from those whose activities in disregard for the law threatened, again in the words of our Declaration of Independence, our "domestic tranquillity." An additional and important function of the FBI is the conducting of intelligence operations directed at foreign espionage efforts against the United States. No one would say the purposes of these activities are improper. In today's world, our needs for an effective Central Intelligence Agency and Federal Bureau of Investigation are more than apparent.

The committee's work, however, revealed that for various reasons, some understandable but still improper, and others without any basis in law or logic, our intelligence agencies, in attempting to maintain our security, acted with complete disregard for a basic tenet of our democratic society. It has often been repeated that ours is a government of laws and not one of men. We assume that the law is just and that justice is blind. When we feel there are inequities in our laws, we seek change through the courts, our legislative processes, or through executive mandate. We equip our Nation, States, counties, and municipalities with necessary means to enforce our laws and seek swift and effective punishment for those who violate them. Our society, while recognizing the fallibility of man, strives for perfection through a well-evolved legal process.

The Select Committee's final report on "Intelligence Activities and the Rights of Americans" states that—

> Legal issue were clearly not a primary consideration—if they were a consideration at all—in many of the programs and techniques of the intelligence community.

Stated plainly, many activities of our intelligence agencies were above and beyond the law. These activities not only involved patent violations of the law but more seriously constituted actions which infringed on the rights of our citizens and our fellow Americans. And the violation of the rights of a single American constitutes a violation of the rights of all Americans, no matter his creed or station in life.

Mr. President, my greatest concern for the future of America, for my State, for my family, for us all, is that we remain free. To do this we must first define freedom, as our forefathers did in the Constitution and Bill of Rights, and live our lives accordingly. Not only must this be done by those who seek change or feel aggrieved by our society, but even more so by those charged with insuring our defense and tranquillity.

Only by positively affirming that neither the least nor the most powerful of us is above the rule of law can we attain the true freedom our forefathers sought 200 years ago.

I thank the Chair.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. ROTH) is recognized for not to exceed 15 minutes.

CONGRESSIONAL ETHICS

Mr. ROTH. Mr. President, when I was talking to people in Delaware over the Memorial Day weekend, I found them more cynical than ever about Congress as an institution. Many references were made to the Wayne Hays scandal, of course, but the main point is that people regard the Hays matter not as an isolated instance but as part of a general pattern of moral laxity in Congress and coverup. The present scandal only reinforces a negative image already there and further contributes to the already dismal condition of public confidence in Congress. Even before the Hays revelations, a Harris poll found that only 9 percent of the American people have a great deal of confidence in the leadership of Congress. This compares to 18 percent 2 years ago and 42 percent in 1966.

If Congress is to retain the public's confidence, it must have the courage to clean up its own house. It has been applying a double standard of morality, pressing ahead with investigations of the executive branch, Watergate, the CIA, and multinational corporations, but reluctantly acting on charges of congressional misbehavior only when forced to. Congress, which has been so ready to preach morality to others, has failed to enforce acceptable standards for itself.

Under pressure, the House Committee on Standards of Official Conduct is formally investigating allegations involving Congressman HAYS and earlier and different charges against Congressman SIKES. Aside from these, here are some other serious allegations:

Charges that Members of Congress other than HAYS have nonworking employees on their payrolls.

Charges that some Members accepted illegal payments from Gulf Oil Co.

Charges that two Members of the House accepted bribes from the South Korean Government.

Charges that several Members of the House turned in false travel vouchers, receiving reimbursement for travel expenses they never paid.

Charges that a Member of the House extorted payments from illegal aliens in return for introducing private bills on their behalf.

I have no personal knowledge of whether any of these allegations are correct, but I think each and every one of these cases should be fully investigated and cleared up. When serious and well-founded charges are made, Congress should show the same vigor in following up on them as it does when the charges involve others. If Congress is going to have high credibility in performing its proper function of investigating abuses elsewhere, we must show that we are willing to apply a single high standard of ethical conduct to all, including ourselves.

Congress has been suspicious when dealing with others, but generous and tolerant in dealing with its own Members. In the case of the House travel vouchers, for example, there appears to be a great willingness to accept the word of Members that they simply did not look at the vouchers they signed and did not realize that they were claiming reimbursement for hundreds or even thousands of dollars they did not spend. I am sure that if similar pleas were made

by executive branch or corporation officials, they would be met with derision.

There can be no double standard when it comes to ethics. An individual should receive no special consideration just because he is in Congress rather than in the executive branch, or just because he is in one party rather than the other, or just because he is powerful or well-liked by his colleagues.

I was a freshman Member of the House when we created the Committee on Standards of Official Conduct. There were high hopes then and a great deal of rhetoric to the effect that that committee and its Senate counterpart would insure a high standard of ethical behavior in Congress and prevent the kinds of abuse so evident in the Bobby Baker and Adam Clayton Powell affairs.

Today these committees are generally viewed as do-nothing, flaccid committees. I hope this situation will be rectified for the good of Congress and the good of the country. We have the machinery to make the investigations that are needed. We have the laws we need. Congress should use the machinery to enforce the laws that we have written.

I believe that whenever there are serious and well-founded allegations of misconduct by Members of Congress, the House and Senate ethics committees should immediately undertake investigations on their own initiative. The honest should be exonerated; the guilty should be punished. That is only fair for Congress as an institution and for those Members who are accused.

Mr. President, I yield back the remainder of my time.

ORDER VITIATING ORDERS FOR RECOGNITION OF SENATOR METCALF AND SENATOR HRUSKA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Mr. METCALF and Mr. HRUSKA be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements therein limited to 2 minutes each.

MESSAGES FROM THE HOUSE

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 10930. An act to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion and to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture; and

H.R. 13655. An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

The message also announced that the House has passed the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1699. An act for the relief of Mrs. Hope Namgyal.

H.R. 11438. An act to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 4, 1976, he presented to the President of the United States the enrolled bill (S. 1699) for the relief of Mrs. Hope Namgyal.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

CONSTRUCTION PROJECTS BY THE AIR NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on seven construction projects to be undertaken by the Air National Guard (with accompanying papers); to the Committee on Armed Services.

REPORT OF THE DEPARTMENT OF STATE

A letter from the Assistant Secretary of State transmitting, pursuant to law, a report summarizing the trade controls of COCOM countries current to February 1, 1976 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General transmitting, pursuant to law, a report entitled "Manufacturing Technology—A Changing Challenge to Improved Productivity" (with an accompanying report); to the Committee on Government Operations.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of Immigration and Naturalization transmitting, pursuant to law, copies of orders suspending deportation, together with a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the commission of the city of Coral Gables, Fla., relating to Federal aid to combat the lethal yellowing palm blight; to the Committee on Agriculture and Forestry.

A resolution adopted by the San Francisco Peaks Chapter of the Society of American Foresters relating to Monongahela legislation; to the Committee on Agriculture and Forestry.

Senate Joint Resolution No. 47 adopted by the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"SENATE JOINT RESOLUTION No. 47

"Whereas, The seasonally adjusted California unemployment rate for January 1976 was 10 percent; and

"Whereas, In January 1976, there were 68,000 more people unemployed in California than there were in December 1975; and

"Whereas, The Congress is now considering legislation which guarantees all adult Americans able and willing to work the availability of an equal opportunity for useful and rewarding employment; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact such legislation; and be it further

"*Resolved,* That the Secretary of the Senate be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the Senate of the State of Indiana; to the Committee on Government Operations:

"RESOLUTION

"Whereas, The Federal Government has continually interceded to mandate certain guidelines for states to follow; and

"Whereas, The Indiana Legislature has spent many hours debating federally imposed standards, including vehicle safety, automobile tire composition, textbook and curriculum adoption, welfare programs including so-called "work incentives" and welfare medical clinic programs that will cost Indiana taxpayers more than thirty million dollars per year:

"Now Therefore, be it resolved by the Senate of the General Assembly of the State of Indiana:

"Section 1. That the Federal Government cease from its dangerous path of mandating guidelines and standards for states to follow, and that it further reconsider all prior legislation in this regard.

"Section 2. That the Secretary of the Senate send copies of this resolution to the leadership in both Houses of the United States Congress, all members of the Indiana Congressional Delegation, and the President of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, with amendments:

H.R. 8410. A bill to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes (Rept. No. 94-932).

THIRD REPORT ON THE CONDUCT OF MONETARY POLICY—REPORT NO. 94-931

Mr. PROXMIRE submitted a special report entitled "Third Report on the Conduct of Monetary Policy," together with additional views, from the Committee on Banking, Housing and Urban Affairs, pursuant to House Concurrent Resolution 133, 94th Congress, first session, which was ordered to be printed.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 10930. An act to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion and to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture; to the Committee on Agriculture and Forestry.

H.R. 13655. An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes; to the Committee on Commerce.

ORDER FOR STAR PRINT

Mr. JAVITS. Mr. President, at the request of the chairman of the Committee on Government Operations, Mr. RIBICOFF, I ask unanimous consent that the committee be permitted to file a star print on its report 94–874 accompanying the Federal Energy Administration Extension Act, S. 2872. Such a star print is necessary to make technical and conforming changes in the report.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by uanimous consent, the second time, and referred as indicated:

By Mr. HELMS (for himself and Mr. MORGAN):

S. 3518. A bill for the relief of Sea Gate, Inc., a North Carolina corporation, and Charles M. Reeves, Jr. Referred to the Committee on the Judiciary.

By Mr. PELL:

S. 3519. A bill to amend section 402 of title 23 of the United States Code, relating to highway safety programs, in order to require certain provisions in such programs to discourage driving while under the influence of alcohol. Referred to the Committee on Public Works.

By Mr. DOLE (for himself and Mr. HUDDLESTON):

S. 3520. A bill to extend the rural community fire protection program, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENSON (for himself, Mr. PEARSON, Mr. GRAVEL, Mr. MONDALE, Mr. STEVENS, and Mr. HOLLINGS):

S. 3521. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes. Referred to the Committee on Commerce.

By Mr. BURDICK:

S. 3522. A bill authorizing the construction of certain bank stabilization works on the Missouri River below Garrison Dam; and

By Mr. BURDICK (for himself and Mr. YOUNG):

S. 3523. A bill to authorize a dam and reservoir for flood control and other purposes on the Pembina River, near Walhalla, North Dakota. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 3519. A bill to amend section 402 of title 23 of the United States Code, relating to highway safety programs, in order to require certain provisions in such programs to discourage driving while under the influence of alcohol. Referred to the Committee on Public Works.

THE ALCOHOL-IMPAIRED DRIVER ACT OF 1976

Mr. PELL. Mr. President, the Nation has just observed Memorial Day of its Bicentennial Year. In doing so, we are reminded of the brave men and women who gave their lives so that the Nation's freedoms might endure. We paused from our normal endeavors over this holiday weekend to honor their sacrifices.

But our automative age has caused us to face another tragic fact over this holiday period—the Memorial Day holocaust on our highways. The National Safety Council reports that, over the Memorial Day weekend, 455 individuals died in highway accidents, while injuries claimed an estimated 21,000.

The toll is staggering, and it is sad. Mr. President, last year 46,200 of our fellow Americans died in motor vehicle accidents. That number, in 1 year alone, is nearly the equivalent of American deaths during the entire Vietnam conflict, which many of us in Congress labored so long to stop. Although it took many years, considerable effort, and untold cost, that bloodshed was stopped. Now we need a similar effort by all Americans to stop the carnage taking place on our Nation's highways.

Admittedly, these deaths, along with 1,800,000 injuries in 1974, were the result of accidents. They nevertheless can be reduced. Many organizations have been actively involved in the fight. The National Highway Traffic Safety Administration of the Department of Transportation, the National Safety Council, the American Automobile Association, the Highway Users Federation—to mention only a few—have all made important contributions. They have identified the main accident causes: unsafe motor vehicles, poorly trained drivers, inadequate emergency medical services, lax enforcement of existing laws, and dangerous highways. After having identified these problems, steps have been taken to protect America's road users: for example, safety belts, forgiving roadsides, safer automobiles, and lower speed limits. During the 1973–74 energy crisis, traffic fatalities were reduced substantially over previous years—primarily because speed limits were lowered to 55 miles per hour througout the country. The reduction of 18 percent from the previous year is most encouraging. Yet that promising trend has now reversed itself.

The most noted cause of automobile accident deaths and injuries is drunk driving. It is also the hardest factor to combat. Estimates are that half of all motor vehicle deaths are alcohol-related.

I know this sad fact all too well. In the past 18 months two of my valued aides have been killed due to the actions of drunk drivers.

On November 16, 1974, Elizabeth Powell was killed by a young man whose car went out of control, crossed the median strip and struck the automobile in which she was riding. He had been drinking. After several delays in his case, he pleaded guilty to the charge of manslaughter and received a 1-year suspended sentence.

On September 27, 1975, Stephen Wexler, the chief counsel to the Senate Education Subcommittee and my close associate for 10 years, was struck down by a drunk driver, who was drag racing at the time. The legal proceedings for the two individuals involved are still taking place, with no end in sight.

Can anything be done to improve this terrible situation? Are we powerless in this mighty Nation to confront a problem that in a decade wipes out more than one-quarter million of our fellow citizens.

I hope not. We cannot just wring our hands and say that drunk driving is just an inevitable adjunct of freedom of expression. We cannot say this because the byproduct of such expression is 25,000 lives a year, nearly a million injuries, and almost $10 billion in monetary losses.

For these reasons I am today introducing legislation to deal with the problem of drunk driving. This bill will require State highway safety programs to contain strong criminal sanctions, alternative service and alcohol safety programs in order to insure continued receipt of Federal highway safety funds. I believe the combination of these alternatives can have a positive impact in giving police, prosecutors, and judges the necessary flexibility to deal with drunk driving cases. I also believe that the bill can serve to focus attention on this immense problem and help stimulate debate on what further steps should be taken. Most importantly, I believe that it will help reduce the highway carnage we read and hear about daily.

Another measure has come before the Senate this term that focuses on the problem of highway safety, and I am proud to be one of its cosponsors. This bill, Senate Joint Resolution 147, introduced by the distinguished Senator from West Virginia, Mr. RANDOLPH, seeks the President's designation of 1976 as National Bicentennial Highway Safety Year. This resolution serves as a symbol of our Nation's serious attempt to confront this national crisis. According to Senate Joint Resolution 147, each month of the Bicentennial Year is being devoted to an aspect of highway safety, culminating in December's focus on alcohol and problem drinkers. I am glad to support this measure which I believe will help publicize the issues and educate Americans about the need for improved highway safety. In a year when so many Americans are taking to the highways to view our country's scenic attractions and historical areas, we cannot do too much to make everyone aware of the problem.

With that thought in mind, I find it doubly important to introduce the Alcohol-Impaired Driver Act at this time. I am aware that there is great reluctance to impose national standards on the States. I too am sensitive to our delicate Federal structure; however there are times when the Federal Government should set minimum standards for the States to follow, and the drunk driving crisis presents such an opportunity. In addition, by allowing flexibility in the sentencing process, the bill takes into

consideration local mores on the subject, thereby lessening the Federal impact.

Section 1 of the bill amends the United States Code section which defines the broad categories of State highway safety programs requiring approval by the Secretary of Transportation—title 23, section 402(a). This section of the bill mandates that "criminal statutes to deter motorists from driving while intoxicated," and "effective alcohol safety programs" shall be contained among the uniform standards promulgated by the Secretary.

Section 2 of the Alcohol-Impaired Driver Act refers to more specific statutory language instructing the Secretary not to authorize any State highway safety program unless it meets certain requirements—23 U.S.C. section 402(b)(1). Under section 2 of the bill, a State highway program would not be authorized if it does not:

(G) mandate a jail sentence of at least ten days or a comparable term of acceptable alternative service for persons found guilty of driving while under the influence of alcohol; and

(H) provide for participation in an alcohol safety program by persons found guilty of driving while under the influence of alcohol and others referred by a court or other competent authority.

Section 3 of the bill gives the Secretary the authority to prescribe the date on which the Act shall become effective. This section is necessary for two reasons: To insure that States are adequately prepared to provide the services required by the act, and to comply with section 208(b) of the recently enacted Public Law 94-280. According to section 208(b) the Secretary shall evaluate the adequacy and appropriateness of all uniform safety standards under section 402 of title 23 and report his findings to Congress on or before July 1, 1977. Meanwhile no funds shall be withheld from States for failure to implement a section 402 highway safety program. The bill in no way infringes on section 208(b) of Public Law 94-280, but it does offer two safety standards for the Secretary to consider in this evaluation: Deterrent criminal statutes and alcohol safety programs.

I believe this approach is an effective one. Although the problems of alcoholism are exceedingly complex, drunk-driving accidents can basically be divided into two categories: accidents involving social drinkers and those involving problem drinkers. According to most experts, the social drinker can be deterred, while the latter group most often is not susceptible to such pressure. Problem drinkers account for approximately two-thirds of the annual alcohol-related traffic deaths, and are the main focus of attempts to reduce drunk-driving incidents. As the National Highway Traffic Safety Administration points out in a recent publication, a case in point is:

A 33-year-old man from Colorado who (because of driving while intoxicated) had paid $1,231 in fines; spent 452 days in jail; had 26 convictions, 14 license actions, four crashes; and finally killed himself in an alcohol-related accident with a Blood Alcohol Count of 19 percent.

Such a person is clearly not easily deterred by the severity of punishment. He or she needs treatment.

My own State of Rhode Island has adopted an innovative approach in this area, and one which I believe should be emulated nationally. The driving while intoxicated counterattack program provides a thorough course in the dangers of driving while under the influence of alcohol for those referred by Rhode Island courts. Comprehensive followup treatment and referral are also available. The course has been praised by participants and administrators alike, and has been cited as a leading reason for Rhode Island's reduction in alcohol-related accidents.

Despite the value of programs such as DOT's alcohol safety action program, and the Rhode Island DWI counterattack program, it is clear that such programs alone will not alleviate the problem satisfactorily. There is a need also for stiffer punishment for many drivers convicted of driving while under the influence of alcohol.

Sanctions against drunk driving are severe in other countries. England and the Scandinavian countries, for example, have strong deterrent laws for driving while intoxicated. I believe such laws have helped hold down incidents of drunk driving. I have seen one of the work camps outside of Helsinki where dignified city fathers who had imbibed more than their share were engaged in physical labor because of driving while intoxicated. Embarrassment and inconvenience were caused them, but their plight served as a lesson to others.

I disagree with the view that the Scandinavian system cannot work in this country because our mores do not support efforts to curb alcohol abuse. There is a growing awareness of the problem here. In some areas of the country the punishment has become quite strict.

For example, a Montgomery, Ala., jury recently brought back a verdict of first-degree murder against a drunk driver who was involved in a fatal traffic accident. More and more in my own State, jail sentences are being handed down to those convicted of driving while intoxicated. It is time for the Federal Government to take the lead in this area. I believe this bill does so without overly intruding into the States' domain.

A popular form of legislative activity these days is to make sentences mandatory, thereby taking away judicial discretion in the sentencing process. However, drunk driving is an area where this approach has been tried and failed. It has been shown that whenever mandatory sentences are used, the law enforcement system breaks down, from first police contact through prosecutors, judges, and juries. The result is fewer drunk driving convictions and less deterrent effect for the law. Court calendars become backlogged as fewer defendants are willing to plead to a drunk driving charge with its certain punishment. They would rather go before a jury and take their chances. Due to these circumstances, prosecutors and judges are willing to accept pleas to lesser charges, thereby undercutting the law's intent.

Under my proposal, these pitfalls would be hopefully avoided. My bill would provide stiff and certain punishment for those convicted of drunk driving, but would give the criminal justice system the flexibility it needs to avoid being circumvented.

Under this system judges would have the choice of meting out jail sentences in appropriate instances; or ordering comparable alternative sentences—for example, working in hospitals, work camps, public service jobs—and requiring attendance at alcohol safety classes.

These are minimum standards. There can be no suspended sentences, no probation in lieu of jail. Of course, a State can add on other sanctions such as fines, license suspensions or can extend jail terms to comport with local feelings on the subject. However, each State will be required to have the minimum standards called for in the bill.

Clearly the cost of such legislation will not be small if we are to establish the requisite alcohol safety programs in each State. Although this bill contains no funding mechanism, a proposal has recently been submitted to the Secretary of Transportation by the National Highway Safety Advisory Committee that deserves serious attention. Under this idea, an additional Federal tax on the sale of alcoholic beverages would be levied, and used for alcohol rehabilitation, education, and drinking/driving in the various States. This proposal has much merit. I hope that the Secretary will consider it seriously.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of title 23 of the United States Code is amended as follows:

SECTION 1. Section 402(a) is amended by inserting in line 18 after "locations", the following: "criminal statutes to deter motorists from driving while intoxicated, effective alcohol safety programs".

SEC. 2. Section 402(b)(1) is amended by adding two new subparagraphs:

"(G) mandate a jail sentence of at least ten days or a comparable term of acceptable alternative service for persons found guilty of driving while under the influence of alcohol"; and

"(H) provide for participation in an alcohol safety program by persons found guilty of driving while under the influence of alcohol and others referred by a Court or other competent authority."

SEC. 3. The amendment made by this Act shall become effective with respect to State highway safety programs on such date as is prescribed by the Secretary of Transportation.

By Mr. DOLE (for himself and Mr. HUDDLESTON):

S. 3520. A bill to extend the rural community fire protection program and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, one of the most serious hazards facing rural Americans is the ever present threat of un-

controlled wildfires. Each year, many lives and millions of dollars of property and natural resources are destroyed as the result of fires on cropland, woodland, and rangeland. Lacking good equipment, proper training and effective organization, rural firefighting forces have often been hardpressed to provide adequate protection. In recent months, however, the situation has begun to improve through the operation of the rural community fire protection program.

RENEWAL OF PROGRAM

Mr. President, today I am pleased to introduce legislation renewing the rural community fire protection program for a period of 3 years beyond its expiration date in fiscal year 1977. The program is aimed at protecting lives and property by providing technical and financial assistance to State foresters, who, in turn, help train, equip and organize rural firefighting units. Matching grants are provided on a project basis for the purpose of purchasing or upgrading equipment, establishing fire departments and training firemen in wildland and structural fire suppression techniques. The program, which is restricted to unprotected or poorly protected communities of under 10,000 population, represents a joint Federal, State and local effort.

ACCOMPLISHMENTS

Five years ago, when I first proposed the rural community fire protection program on a trial basis, I expressed the hope that this effort would spark a renewed local commitment to better and stronger firefighting forces in rural America. This hope has become a reality. Since the inception of the program, the volume of applications has remained consistently high, and the Federal matching grants have succeeded in generating almost twice as much non-Federal money. In 1975, the first year the program operated, 5,376 applications for assistance were received, and the allocated funds were distributed among 2,167 approved projects. Federal grants totaled $3.5 million and generated an additional $5.2 million in non-Federal matching money.

While much of the total funding was used to purchase or refurbish basic equipment, a significant share was expended on training programs and on organizing new fire departments. During 1975 alone, more than 18,000 rural firemen received training through the program and 19 new fire districts were established resulting in improved insurance rates in 18 communities. The statistics certainly appear to support my conviction that the rural community fire protection program is a sound and cost-effective national investment.

OVERSIGHT PROVISION

The proposed renewal legislation maintains the existing structure of the program, but adds a new provision requiring the U.S. Forest Service to furnish a brief annual report to Congress for oversight purposes. The report will apprise Congress of the number and origin of applications received, the number and amount of grants and matching funds, and the uses to which they are put. In this way, Congress will be able to measure results and judge whether the program is continuing to serve as a strong incentive for better fire protection.

In addition, the renewal legislation underscores the importance of achieving maximum effectiveness by coordinating the program with such complementary programs as Farmers Home Administration's community facilities loans, the Federal excess property loan program, and the volunteer firemen provisions in section 816 of the Agricultural and Consumer Protection Act of 1973.

Mr. President, the capability of coping with fires rests on the availability of equipment and trained personnel. The rural community fire protection program provides these conditions and has proved its effectiveness. I urge Congress to renew this program in the expectation that we may continue to reduce losses of life and property and prevent future fire outbreaks of potentially disasterous proportions.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of the Rural Development Act of 1972 (7 U.S.C. 2652) is amended by inserting "(a)" before the first sentence and by adding at the end of such section the following new subsections:

"(b) The Secretary, with cooperation and assistance from the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949) by rural fire forces receiving assistance under this title.

"(c) To promote maximum program effectiveness and economy, the Secretary shall closely coordinate the assistance provided under this title with assistance provided under other fire protection and rural development programs administered by the Secretary.".

SEC. 2. Section 403 of the Rural Development Act of 1972 (7 U.S.C. 2653) is amended by (1) striking out "Report.—" and inserting in lieu thereof "Reports.—(a)"; and (2) adding at the end of such section a new subsection as follows:

"(b) Not later than March 1 of each year, beginning in the calendar year 1977, the Secretary of Agriculture shall submit a report to the Congress regarding the operation, during the preceding fiscal year, of the program provided for under this title. The Secretary shall include in such report the number of applications for assistance filed by each State during such fiscal year, the number of such applications approved by the Secretary, the amounts allocated to each State and the purposes for which such allocations were made. The Secretary shall also include in such report such comments and recommendations for improving such program as he deems appropriate.

SEC. 3. Section 404 of the Rural Development Act of 1972 (7 U.S.C. 2654) is amended by adding at the end thereof the following new sentence: "There is further authorized to be appropriated to carry out the provisions of this title not to exceed $7,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980."

Mr. HUDDLESTON. Mr. President, I am delighted to join my distinguished colleague from Kansas (Mr. DOLE) in introducing S. 3520, which renews title IV of the Rural Development Act of 1972 for another 3 years.

The need is obvious. In the few years the program has been in operation, there have been 60 requests for help from my own State of Kentucky totaling $285,016. In 1975 it was planned that Kentucky receive $26,119 for equipment and $36,715 for training for a total of $62,834. Local governments and fire districts were to put up $63,243.

Seemingly these are very small amounts of money when taken within the context of overall Federal spending. But when they are combined with the community facility loan program under title I of the Rural Development Act, plus convertible equipment received from the excess property program, a great deal can be done to improve rural fire protection with just a small outlay of dollars.

Under the provisions of title IV, Congress found that inadequate fire protection and the resultant threat of substantial losses of life and property is a significant deterrent to the investment and capital needed to revitalize rural America.

The Secretary of Agriculture, therefore, was authorized to provide financial, technical and other assistance to State foresters or other appropriate State officials to train, organize and equip local firefighting forces to control fires threatening human life, livestock, woodlands, farmsteads and other important rural values.

Money provided under this title is to be matching grants of up to 50 percent. Local governments or other entities put up the rest of the money.

In 1973, in a report called America Burning, the National Commission on Fire Prevention and Control said:

The fire fatality rate for white Americans in nonmetro areas is 4 per 100,000 versus 2.7 per 100,000 in metro counties. Among blacks and other minority groups, the incidence as well as disparity is even greater: 15.3 per 100,000 in nonmetro areas versus 8.1 in metro areas.

The Commission called on rural residents to install early warning detectors and alarms. But this clearly is not going to be enough. Half of the Nation's poverty and two-thirds of the substandard housing is in rural areas. Millions of people will not be able to afford these devices.

There must be a Federal response, and this modest little program must be a part of that response.

Rural fire protection agencies are faced with insufficient water supplies, a lack of adequate building codes and sufficient enforcement personnel, and not enough money to train and pay firefighters. This latter factor was why I had title IV amended in the 1973 farm bill to include training for volunteer firemen.

Mr. President, in fiscal 1975 the Congress appropriated $3.5 million for title IV. This small amount of seed money resulted in the additional expenditure of $5.2 million in local money to improve rural fire protection.

To my mind this program represents a decent and worthwhile investment in

the protection of rural people from the ravages of fire.

I commend the enactment of this bill to the Senate.

By Mr. STEVENSON (for himself, Mr. PEARSON, Mr. GRAVEL, Mr. MONDALE, Mr. STEVENS, and Mr. HOLLINGS):

S. 3521. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes. Referred to the Committee on Commerce.

Mr. STEVENSON. Mr. President, natural gas reserves in the Prudhoe Bay field of Alaska's North Slope are estimated at approximately 24 trillion cubic feet.

Estimates of natural gas shortages in the lower 48 States during winter range from 1.5 trillion to 4.0 trillion cubic feet depending upon the severity of the winter.

Whether it is feasible to construct a transportation system for moving natural gas from Alaska to the lower 48 States is a question of the highest national priority. But beyond the proposition that Alaska has vast reserves of natural gas and the lower 48 States have serious shortages, questions of how to decide whether such a transportation system is feasible, who should make the decision, which system it should be, where it should be located, when it should be built, and how it should be financed are complicated and controversial.

Proof of that fact is the 110,000-page record compiled in the course of the Federal Power Commission's consideration of the applications before it. The competition is so intense and the opposition to certain systems so strenuous that it is likely the Commission's proceeding will end up in the courts, delaying construction of any project for at least 3 more years. Costs due to delay rise an estimated $1 million per day—and the shortages of natural gas grow more severe.

The decision as to which project, if any, ought to be built involves delicate negotiations with Canada which neither the Congress nor the FPC is qualified to undertake. It will require technical assessments of environmental impacts on land and sea. The considerations are many, and they do not all yield to resolution by the Congress. Indeed, a congressionally proposed route could result in a clash between regional interests that might make a sound decision impossible in the near future. And yet the 4-year delay inherent in existing procedures is not acceptable.

Instead of doing nothing or mandating a decision, the Congress should establish a process through which a timely and sound decision can be reached. Such a process could draw on the expertise and experience of the FPC, involve the President's responsibility for foreign relations, congressional review, and an abbreviated judicial review—guaranteeing completion of the process within a reasonable fixed time.

Mr. President, I am, therefore, today introducing with Senators PEARSON, MONDALE, STEVENS, and HOLLINGS a bill to establish such a neutral process, mobilizing the relevant expertise and involving the responsibility of all branches of the Federal Government. This process would produce a decision on this complicated question by the end of 1977.

The bill would require the Federal Power Commission to review all project alternatives—including those which are not currently represented by an application before the Commission—and recommend to the President by February 1, 1977, whether a project should be built and, if so, which one.

Federal agencies would comment to the President on the Commission's recommendation prior to April 1, 1977. By that same date, the Governor of any State, any municipality or other interested party could also submit comments on the Commission's recommendation to the President.

With the benefit of the Commission's recommendation, agency comments, and other public submissions, the President would then be required by July 1, 1977, to issue a decision as to which transportation system, if any, should be built. That decision would be transmitted to the Congress together with a report explaining the decision. Within 20 days of the President's decision, the Commission would be required to comment on the President's decision.

Either House of Congress would have 60 legislative days under expedited congressional procedures to disapprove the President's decision. If neither House disapproves, the decision would become final.

If either House disapproved, the President would be required to send a new decision to the Congress within 30 days. The procedures established by this bill would be exhausted if either House disapproved a second Presidential decision.

Once a Presidential decision became final, judicial review of the decision and actions taken pursuant to it would be limited to claims challenging the constitutionality of the legislation and acts pursuant to the legislation and claims that such acts are beyond the scope and authority of the legislation. All claims challenging the constitutionality of the legislation would have to be filed with the Court of Appeals of the District of Columbia within 60 days of a final decision, and all claims challenging actions, within 60 days of the challenged act.

The court would be required to render a decision on all such matters within 60 days of the filing of such claims. Petitioners would have another 15 days from the time such a decision is rendered to file a petition for certiorari with the Supreme Court.

The bill requires all Federal agencies to issue the necessary permits, leases, and other authorizations necessary to execute a final decision and provides the appropriate Federal officers with civil remedies enforced through the Justice Department for noncompliance with any agency order issued under the legislation.

Finally, the bill provides for equal access to facilities for all shippers and purchasers, places a limitation on the export of Alaska natural gas to foreign nations, and assures that all actions taken pursuant to a final decision under the bill are consistent with requirements of the antitrust laws.

The bill provides 5 months, from February 1 to July 1, 1977, for the President to explore the possibilities of a jointly approved project with the Canadians, and the delicate questions such negotiations may involve. It establishes a timetable for reaching a decision in the United States that matches the decision-making time frame for the Canadian Government.

And, if, after all the safeguards, public input, and mobilization of public and private expertise, the initial result still offends public policy, there is the final check of disapproval by the Congress.

The bill assures a timely, informed decision. In that regard, the bill establishes a neutral process. It requires the Commission to base its decision on project costs, environmental impacts, safety, potentials for delay, an assessment of regional natural gas needs, financeability, and the potential for opening access to the transportation of other resources or commodities to the United States.

In addition to these factors, the President in reaching his decision must also consider matters related to international relations and the prospects for reaching a reasonable agreement with Canada, national security concerns, and impacts on the national economy.

This bill, in short, offers the Congress and the President an opportunity to act positively and quickly on this question. I hope the varied interests of the States represented by the Senators who are sponsoring this bill with me is an indication of the bipartisan, nationwide support the bill will receive. I am grateful to my colleagues for their public spirited cooperation and their generous contribution of time and skill to this effort.

I urge all the Members to support this bill as a means of moving swiftly and harmoniously in an urgent need.

Mr. President, I ask unanimous consent that a full text of the bill appear in the RECORD immediately following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Alaska Natural Gas Transportation Act of 1976".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that—

(a) a natural gas supply shortage exists in the United States;

(b) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(c) the construction of a viable natural gas transportation system for delivery of Alaska natural gas to other States is in the national interest; and

(d) alternative systems for transporting Alaska natural gas to other States have been proposed, and the selection of a system, if any, involves critical questions of national energy policy, international relations, national security and economic and enviromental impact, and therefore should appropriately be addressed by the Congress of the United States and the Executive Branch, in addition to the Federal Power Commission.

STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to expedite a sound decision as to the selection of a natural gas transportation system for delivery of Alaska natural gas to other States through establishment of new administrative and judicial procedures. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and in limiting judicial review of the actions taken pursuant thereto.

DEFINITIONS

SEC. 4. As used in this Act—

(a) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(b) the term "Commission" means the Federal Power Commission; and

(c) the term "Secretary" means the Secretary of the Interior.

FEDERAL POWER COMMISSION REVIEW AND REPORTS

SEC. 5. (a) (1) Notwithstanding the provisions of the Natural Gas Act (15 U.S.C. 717–717w), all pending proceedings before the Commission relating to the transportation of Alaska natural gas shall be governed by this Act, and the procedures established and authorized hereunder shall govern actions by the Commission with respect to review of applications and reasonable alternatives relating to the transportation of Alaska natural gas to other States.

(2) The Commission, in the exercise of its discretion, shall establish such rules and procedures as it deems appropriate to carry out its responsibilities under this Act with respect to review of applications and reasonable alternatives relating to the transportation of Alaska natural gas to other States. Such rules and proceduers shall supersede rules or procedures that would otherwise have obtained under the Natural Gas Act (15 U.S.C. 717–717w) and the Administrative Procedure Act (5 U.S.C. 552).

(3) Any certificate of public convenience and necessity related to the transportation of Alaska natural gas from the State of Alaska to other States shall be issued by the Commission in accordance with section 9 of this Act.

(4) The provisions of the Natural Gas shall apply to the extent they are not inconsistent, as determined by the Commission, with this Act.

(b) The Commission may request such information and assistance from any Federal agency as it deems necessary and appropriate regarding the transportation of Alaska natural gas. All Federal agencies requested to submit information shall submit such information to the Commission at the earliest possible time after receipt of a Commission request.

(c) The Commission, pursuant to rules and procedures established under paragraph (2) of subsection (a) of this section, is hereby directed to review all applications pending on the date of enactment of this Act and any subsequent amendments thereto, as well as alternatives for the transportation of Alaska natural gas to other States, and to transmit a recommendation concerning an Alaska natural gas transportation system to the President by March 1, 1977. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or such other form as the Commission deems appropriate, and may include a recommendation that approval of a transportation system be delayed. Any recommendation for the construction of a system shall include a description of the route and major facilities and designate a party to construct and operate such a system.

(d) In making its recommendation, the Commission shall consider for each transportation system under review, the following factors:

(i) projected natural gas requirements of all regions of the United States;

(ii) transportation costs over its economic life;

(iii) the extent to which it provides access for the transportation to the United States of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve.

(iv) environmental impacts;

(v) safety and efficiency in design and operation and potential for interruption in the supply of natural gas;

(vi) construction schedules and other possibilities for delay;

(vii) feasibility of financing; and

(viii) such other factors as the Commission deems appropriate.

(e) The recommendation by the Commission pursuant to this section shall not be based upon the fact that the government of Canada or agencies thereof have not by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(f) The Commission's recommendation shall be accompanied by a report which shall be made public, explaining the basis of its recommendation, including specific reference to the factors described in subsection (d) of this section.

(g) Within 20 days after the transmittal of the President's decision to the Congress under Section 7, the Commission shall issue a report, which shall be made public, commenting on the decision and including any information with regard to that decision which the Commission deems appropriate.

OTHER REPORTS

SEC. 6. (a) By April 1, 1977, any agency may submit a report to te President with respect to the recommendation of the Commission and the alternative methods for delivering Alaska natural gas to other States. Such reports shall be made public when submitted to the President, unless expressly exempted from this requirement by the President, and shall include information and recommendations within the competence of such agencies with respect to—

(i) environmental considerations, including air and water quality and noise impacts;

(ii) the safety of the transportation systems;

(iii) international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(iv) national security, particularly security of supply;

(v) sources of financing for capital costs;

(vi) impact on the national economy including regional natural gas requirements.

(vii) relationship of the proposed transportation system to other aspects of national energy policy.

(b) By April 1, 1977, the Governor of any State, any municipality or State utility commission, and any other interested person may submit to the President such reports, recommendations, and comments with respect to the recommendation of the Commission and alternative systems for delivering Alaska natural gas to other States as they deem appropriate.

PRESIDENTIAL DECISION AND REPORT

SEC. 7. (a) (1) As soon as practicable after receipt of the recommendation, reports, and comments pursuant to sections 5 and 6 of this Act, but not later than July 1, 1977, the President shall issue a decision as to which system for transportation of Alaska natural gas, if any, shall be approved. The President in making his decision on the natural gas transportation system shall take into consideration the Commission's recommendation pursuant to section 5, the factors set forth in section 5(d), and the reports provided for in section 6, and shall be based on his determination as to which system, if any, best serves the national interest.

(a) (2) Consistent with the provisions of this Act, the Natural Gas Act and other applicable law, the President's decision shall contain such terms and conditions as he deems appropriate for inclusion in any certificate issued pursuant to this Act. The President shall identify the legal authority pursuant to which any such term or condition is included. No such term or condition shall be included unless the President has identified such legal authority.

(b) The decision of the President made pursuant to subsection (a) of this section shall be transmitted immediately to the Senate and the House of Representatives and shall be accompanied by a report explaining in detail the basis for his decision and the reasons for any revision, modification, or substitution of the Commission recommendation.

(c) In making his decision the President shall inform himself, through appropriate consultation, of the views and objectives of the several states and the Government of Canada with respect to those aspects of such determination that may involve intergovernmental and international cooperation between the Government of the United States and the Government of Canada.

(d) The decision of the President shall become final as provided in section 8.

CONGRESSIONAL REVIEW

SEC. 8. (a) The decision concerning an Alaska natural gas transportation system by the President shall become final at the end of the first period of 60 calendar days of continuous session of Congress after the date of receipt by the Senate and House of Representatives, unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the President's decision.

(b) If either the House or the Senate passes a resolution of disapproval, the President, within 30 days of such disapproval must propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision, together with a statement of the reasons therefor, shall be transmitted to the House of Representatives and the Senate on the same day while both are in session and shall become final pursuant to subsection (a) of this section.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d) The procedures of subsection (d) of section 552 of Public Law 94–163 (42 U.S.C. 6422(d)) (relating to expedited procedure for congressional consideration) shall apply to this section except that (1) the term "Presidential decision on an Alaska natural gas transportation system" shall be substituted for the term "contingency plan" wherever it appears; and (2) subsection (d)(2) of Public Law 94–163 is, for the purposes of this section only, amended to read as follows:

"(2) For purposes of this subsection, the term 'resolution' means only a resolution of either House of Congress, the resolving clause of which is as follows: "That the . . . disapproves the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on . . . , 19 . .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one Alaska Natural Gas Transportation System."

AUTHORIZATIONS

SEC. 9. (a) The Congress hereby authorizes and directs the Commission, the Secretary and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce all certificates, rights-of-way, permits, leases, and other authorizations necessary or related to the construction, operation, and maintenance of the transportation system selected in the decision, if any, which becomes final pursuant to section 8 of this Act. All certificates, rights-of-way, permits, leases and other authorizations issued pursuant to this subsection shall be issued at the earliest practical date. All agencies shall expedite in every way their consideration of such certificates, rights-of-way, permits, leases and other authorizations and such matters shall take precedence over all similar activities of such agencies. Rights-of-way, permits, leases, and other authorizations issued pursuant to this Act by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), except the provisions of subsections (h)(1), (j) with respect to initial approvals, (k), (q), and (w)(2) thereof; provided, however, that the submission required by the first sentence of subsection (h)(2) thereof may be made at the earliest practicable time after issuance of the rights-of-way and other authorizations hereunder.

(b) All authorizations issued pursuant to this Act shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this Act had not been enacted, so long as such terms and conditions are not inconsistent with the purposes of this Act and do not change the basic nature and route of the transportation system designated hereunder, and the Federal officers and agencies issuing such authorizations may expedite or waive any procedural requirements of law or regulations which they deem necessary to waive in order to accomplish the purposes of this Act. The direction contained in this section shall supercede the provisions of any law or regulations relating to an administrative determination as to whether the authorizations for construction of a system for transportation of Alaska natural gas shall be issued.

(c) The holders of certificates issued by the Commission pursuant to this section 9, shall have all rights, powers and obligations of holders of a certificate of public convenience and necessity issued pursuant to the Natural Gas Act, in addition to any other rights, powers and obligations pursuant to this Act.

(d) Consistent with the purposes of this Act, the Secretary and other Federal officers and agencies are authorized at any time when necessary to protect the public interest to exercise any authority under existing law to amend or modify any right-of-way, permit, lease, or other authorization issued by such officer or agency pursuant to this Act.

JUDICIAL REVIEW

SEC. 10. Notwithstanding any other provisions of law, except the provisions of section 11 of this Act, the actions of Federal officers or agencies taken pursuant to this Act, including the issuance of a certificate of public convenience and necessity by the Commission relative to, and actions concerning the issuance of the necessary rights-of-way, permits, leases or other authorizations for construction, and initial operation at full capacity of, the system for the transportation of Alaska natural gas designated hereunder, and the legal or factual sufficiency of any environmental statement prepared relative to the Alaska natural gas pipeline pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.) shall not be subject to judicial review under any law, except that claims alleging the invalidity of this Act may be brought within 60 days following a decision becoming final pursuant to section 8 of this Act, and claims alleging that an action will deny rights under the Constitution of the United States, or that an action is beyond the scope of authority conferred by this Act, may be brought within sixty days following the date of such action. A claim shall be barred unless a notice of appeal is filed in the United States Court of Appeals for the District of Columbia within such time limits, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within sixty days after such claim is brought. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. There shall be no review of an interlocutory or final judgment, decree, or order of such court except that any party may file a petition for certiorari with the Supreme Court of the United States, within fifteen days after the decision of the United States Court of Appeals for the District of Columbia shall be rendered.

REMEDIES

SEC. 11. (a) In addition to remedies available under other applicable provisions of law, whenever on the basis of any information available to it the Commission, the Secretary or other appropriate agency head finds that any person is in violation of any provision of this Act or other applicable law or any rule, regulation, or order thereof, or condition of the certificate, the Commission, Secretary, or other appropriate agency head, as the case may be, in their discretion, may (1) issue an order requiring such person to comply with such provision or requirement or (2) bring a civil action in accordance with subsection (c) of this section.

(b) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and a time of compliance not to exceed 30 days, which the Commission, the Secretary, or other appropriate agency head; as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) Upon a request by the Commission, the Secretary, or other appropriate agency head, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day of such violation, for any violation for which the Commission, the Secretary, or other appropriate agency head is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty.

EXPORT LIMITATIONS

SEC. 12. Any exports of Alaska natural gas shall be subject to all of the limitations and approval requirements of the Natural Gas Act (15 U.S.C. 717 et seq.) and, in addition, notwithstanding any other provision of law, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States, and are in the national interest.

EQUAL ACCESS TO FACILITIES

SEC. 13. There shall be included in the terms of any certificate issued pursuant to this Act a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system may be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of their degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

ANTITRUST LAWS

SEC. 14. The grant of a certification, right-of-way, permit, lease, or other authorization pursuant to this Act shall not impair or amend any of the antitrust laws.

EXPIRATION OF AUTHORITIES

SEC. 15. The provisions of sections 4(a), 5, 6, 7, and 8, of this Act shall expire upon the date that a certificate for the Alaska Natural Gas Transportation System becomes final in accordance with the provisions of section 8 of this Act or July 1, 1978, whichever is earlier.

SEPARABILITY

SEC. 16. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

ADDITIONAL COSPONSORS

S. 2348

At the request of Mr. HARTKE, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2348, to amend the Internal Revenue Code of 1954.

S. 2925

At the request of Mr. MUSKIE, the Senator from Utah (Mr. Moss), the Senator from Idaho (Mr. MCCLURE), and the Senator from New York (Mr. BUCKLEY) were added as cosponsors of S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 3349

At the request of Mr. HELMS (for Mr. MATHIAS), the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 3349, the Bill of Rights Procedures Act of 1976.

S. 3369 AND S. 3370

At the request of Mr. PROXMIRE, the Senator from Maine (Mr. HATHAWAY) were added as cosponsors of S. 3369 and S. 3370, increasing authorizations for Small Business Administration programs.

S. RES. 434

At the request of Mr. CLARK, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of Senate Resolution 434, relating to the treaty powers of the Senate.

SENATE RESOLUTION 457—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. HELMS (for himself and Mr. MORGAN) submitted the following resolution:

SENATE RESOLUTION 457

Resolved, That bill (*S. 3518*) entitled "A bill for the relief of Sea Gate, Inc., a North Carolina corporation, and Charles M. Reeves, Jr.", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL RETIREMENT BENEFITS—S. 3134

AMENDMENT NO. 1779

(Ordered to be printed and referred to the Committees on Post Office and Civil Service, Armed Services, and Foreign Relations.)

Mr. CHILES. Mr. President, I am at this time submitting for myself, Senator NUNN, and Senator DOMENICI, an amendment to S. 3134, which was introduced by Senator BUCKLEY. That bill and my amendment revise provisions of the United States Code which relate to the computation of cost-of-living increases for Federal retirement benefits paid under civil service, military and foreign service plans. I ask unanimous consent that the amendment be printed and that it appear in full in the RECORD of today's proceedings at the conclusion of my remarks.

My amendment clearly establishes the principle that Federal retirees should be fully compensated for inflation on a timely basis. Under the present system, Federal retirees get no increase at all until the price index goes up by 3 percent and stays there for 3 months. It then takes another 3 months for the adjustment to take effect. While this system might have made sense 10 years ago when inflation was slow and erratic, at present it does nothing but delay the adjustment of benefits. It does not even save the Government money in the long run, it just postpones payments.

At present inflation is running in the range of 5 to 7 percent a year, which means about 6 months to meet the 3-percent requirement. In fact, if you had 5 percent a year inflation, you would have to wait 9 months to meet the requirement, plus another three to get the money. That is, it would take you a full year to catch up with a half year's price increases. I think we ought to be able to get the money out faster.

My bill does just that. It sets up a regular, automatic review every 6 months. Whatever the cost-of-living increase has been, that is what the benefit adjustment would be, whether it crosses the arbitrary 3 percent or not. I think this system would be fair to everyone and would eliminate the time lags and uncertainties. Retirees would know that they would get an increase each April and October, and could count on how much it would be.

The Buckley bill would eliminate the "1-percent add-on" provision by which Federal employees' retirement benefits are increased by 1 percent more than the actual cost-of-living change. Unfortunately, simple elimination does not speak to the problem of an erratic and often drawn-out process of adjusting retirement benefits for cost-of-living increases. My amendment goes directly to this problem by eliminating the 3 percent minimum triggering mechanism which causes the delays. Instead, I would have an automatic semiannual adjustment to whatever the consumer price index change had been in the previous 6 months. It seems to me that this system would be more fair to everyone involved, would save a lot of money and would be less inflationary.

The "1-percent add-on" went into effect in 1969. At that time it was probably a very good idea. Inflation was much slower then, and waiting for a 3-percent change in prices to trigger an increase in retirement payments could take a long time. The situation has changed dramatically since then; the first automatic increase after the 3-percent trigger system started in 1965 took 24 months to go into effect, the second took 13 months, and the third took 16 months. In the 1970's, however, the time lag has gone steadily downward, to an average of 9 months between cost-of-living adjustments. This compares with a 12-month adjustment period for social security benefits, annual reviews for active Federal workers and no better than annual adjustments in most private sector union contracts. So right now the time lag that the add-on was supposed to compensate for has mostly disappeared. By mandating a semiannual adjustment, my bill secures a steady, timely response to the impact of inflation on the retired person.

Mr. President, it is important to note that most of the population does not get fully compensated for the effects of inflation. Many State and local pension systems have "caps" limiting the percent increases for any 1 year. Most union agreements for active workers in the private sector also have "caps." For example, for the period 1971 to 1975, cost-of-living escalators in union wage agreements only returned an average of 57 percent of the actual increase in prices. A major change from the 1960's is that we have now provided a full, automatic cost-of-living adjustment for Federal retirees. This is an advanced benefit that should not be taken lightly. To give anything but the exact amount of the price change would jeopardize the basic principle.

I believe that retired persons should get a full cost-of-living increase, because they do not have the option of working more hours or making up the loss in other ways. I have fought the proposals by the President to place a 5-percent cap on retirement increases. But the simple fact is that if we are going to keep public support for a fair cost-of-living adjustment, we are going to have to make it exactly fair, not a little bit more than everybody else is getting. At the same time we must avoid arbitrary devices like the 3-percent minimum. I, therefore, hope the Senate will adopt this amendment to provide Federal retirees a full cost-of-living increase every 6 months.

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT—S. 2872

AMENDMENT NO. 1780

(Ordered to be printed and to lie on the table.)

OFFICE OF ENERGY INFORMATION AND ANALYSIS

Mr. HASKELL. Mr. President, today Senator JACKSON and I are submitting a major amendment to S. 2872, the Federal Energy Administration Extension Act. This amendment would establish within the FEA a professional Office of Energy Information and Analysis which would be free to collect and organize the standardized, accurate, and credible energy information which FEA needs to carry out its functions and which the Congress and the public requires if intelligent decisions with regard to energy policy are to be made.

One of the most important reasons why so many of the debates over energy choices in past years have failed to converge has been the widespread confusion with respect to, and outright distrust of, both basic background energy data and statistics and the analytical methods used to organize this information. Control of and access to energy information has been held tightly by the energy industry for years. Recently the Federal Government—specifically the Federal Energy Administration—has acquired enhanced authority to collect and assemble energy statistics. However, both these "sources" of information are also intensely interested in the outcome of energy policy decisions.

Both the industry and the FEA have been involved in the energy debate as advocates. This automatically raises substantial questions about the reliability and usefulness of the energy information and analysis which is provided to us from these sources. I believe that there is an inherent conflict of interest between the role of a policy advocate and that of one who attempts to serve as an objective provider and organizer of information. I believe that this conflict of interest has substantially inhibited acceptance of the real messages contained in the energy statistics we do have and has delayed collection of some information we badly need. Both the FEA and the industry have often told us the truth. However, because of their advocacy roles, both the basic information and analysis and their policy advice has been per-

ceived as slanted. The facts have been lost in a flurry of charges and indignant countercharges.

I have long thought that this was a situation which should and could be corrected through a proper organizational approach to energy information. I have, therefore, urged the Senate Interior Committee to act on legislation introduced by Senator NELSON, S. 1864, the Energy Information Act. This bill, together with an amendment to it, No. 1435, which I introduced, represents an ambitious attempt to consolidate energy data and analytical functions in a new independent agency, to reorganize data collection in existing agencies, to rationalize the rules with regard to confidentiality in the handling of energy information, and initiate a major survey program to determine the location, extent, and value of our domestic energy resources.

Extensive hearings, which I chaired, were held in the Interior Committee on S. 1864 on March 3, 8, 9, and 12 and on April 2. The legislation has received substantial attention at the staff level within the committee, and the views of a wide range of interested parties in the administration and in the private sector have been considered.

It now appears that enactment of legislation which accomplishes the full range of the policy goals of S. 1864 will not be possible in this session of Congress. Nonetheless I continue to believe that there are important organizational improvements in the energy information situation which are within reach of possibility.

Senator JACKSON and I are, therefore, offering today an amendment to S. 2872, the FEA Extension Act, to formally establish within the FEA a credible energy information system which can function to serve our present needs and which will also provide the nucleus of the continuing effort in energy information and analysis which we will require for a long time to come. In structuring this amendment we have narrowed the scope of the legislation to deal specifically with the relationship between the energy information functions and the energy policy roles of the executive branch. Under the amendment the basic energy information function would be retained in the FEA, but would be clearly insulated from the FEA's regulatory and policy advocacy functions. The FEA is a temporary agency, but our energy information needs are pressing today and will continue to exist for the long term. Our amendment is targeted on these needs and, we feel, accomplishes a highly useful goal of policy. We offer this amendment without prejudice to the larger goals which the amendment does not address relating to the ultimate questions of energy organization in the Federal Government, the proper balance with respect to confidentiality in the handling of energy information or the need to accelerate our efforts to inventory domestic energy resources.

Mr. President, I ask unanimous consent that a summary and text of the amendment be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY: AMENDMENT BY SENATOR HASKELL TO THE FEA EXTENSION ACT (S. 2872)—OFFICE OF ENERGY INFORMATION AND ANALYSIS

This amendment would add a new title III to S. 2872, the FEA Extension Act, which would establish in the Federal Energy Administration a professional Office of Energy Information and Analysis. The Office would be headed by a Director who would be appointed by the President subject to Senate confirmation and who would be required to have background experience appropriate to the task of managing the National Energy Information System authorized by the amendment. This system, when complete, would contain the energy information required to permit comprehensive and detailed review of the energy-related problems facing the FEA and the Congress.

It is the intent of the amendment that the Office be explicitly separated from the energy policy role of he FEA and that it serve as an objective, professional resource for the Congress and the public as well as for the FEA. The Office would have the analytic capabilities needed to evaluate energy information and organize it into useful form. While the office would be involved in econometric modeling and energy forecasting, it is intended that these activities involve, where appropriate, alternate methodologies and that these methodologies be available for public review and analysis. The procedures of the office would be subject to an independent professional performance audit review on an annual basis.

The FEA Administrator would be required to conduct a review of Federal energy information activities and develop recommendations designed to reduce burdensome and duplicative reporting of energy information for a report on energy organization required in S. 2872.

For the operations of the office, the Director is empowered to utilize to the maximum extent practicable the files of energy information already being maintained by various Federal agencies. No information in the possession of the Office could be withheld from the Congress.

The Director would be authorized to make both regular periodic and special reports to the Congress and the public providing a comprehensive picture of energy supply and consumption in the United States, including description of important trends in these data. In addition, the Director would be required to collect, and publish in summary form on an annual basis, standardized and comparable information from major energy producing companies which would include a thorough evaluation of revenues, profits, cash flow, costs and competitive structure within the energy industry.

The title creating the office would become effective 180 days after enactment.

AMENDMENT NO. 1780

On page 25, line 22, insert the following:

TITLE III—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

SEC. 301. (a) The Congress finds that decisionmaking with respect to, and management of, the energy resources and supplies of the United States requires adequate, accurate, standardized, coordinated and credible energy information for preservation and enhancement of the public health, safety and welfare and the national security of the United States.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of standardized, accurate and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress and to the public.

SEC. 302. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"SEC. 31(a)(1). There is established within the Federal Energy Administration an Office of Energy Information and Analysis (hereinafter in this Act referred to as the "Office") which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b)(1) The Director is authorized to exercise, on behalf of the Administrator, those authorities, including enforcement authorities contained therein, granted to the Administrator in section 13 of this Act and in sections 11 and 12 of the Energy Supply and Environmental Coordination Act of 1974, as amended.

"(2) The Director, on behalf of the Administrator, is authorized to collect, tabulate, compare, analyze, standardize and disseminate the energy information collected:

"(A) pursuant to the authorities specified in paragraph (b)(1) of this section; and

"(B) to fulfill the requirements of the National Energy Information System established pursuant to section 32 of this Act.

"(c) As used in this Act the term "energy information" shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"NATIONAL ENERGY INFORMATION SYSTEM

"SEC. 32(a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the "System"), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of

"(1) the Federal Energy Administration in carrying out its lawful functions;

"(2) the Congress; and

"(3) other Federal agencies responsible for energy-related policy decisions.

"(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, when fully operational, such energy information as is required to define and permit analysis of

"(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

"(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

"(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

"(4) the capital requirements of the public and private institutions and establishments responsible for the production and distribution of energy;

"(5) the standardization of energy information and statistics that are supplied by different sources;

"(6) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

"(7) international aspects, economic and otherwise, of the evolving energy situation; and

"(8) long-term relationships between energy supply and consumption in the United States and World communities.

"(c) Nothing in sections 31 through 40 of this Act shall impair the ability of the Administrator or the Director, in carrying out statutory responsibilities relating to energy information under this or other Acts, to authorize acquisition and analysis of such information as he may deem necessary (including information necessary to monitor compliance with regulatory programs mandated by law) by such officers or employees of the United States as he deems appropriate.

"ADMINISTRATIVE PROVISIONS

"SEC. 33(a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

"(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to 10 of the employees in grades GS-16, 17 or 18 authorized by section 7 of this Act.

"(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delegation may be made to any officer of agency of the Federal Government and to the State, regional and local public agencies and instrumentalities.

"(d)(1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) The Director shall, within two weeks after the submission by the President of his budget for each fiscal year, report to the Congress concerning the budgetary needs of the Office. Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office.

"ANALYTICAL CAPABILITY

"SEC. 34.(a) The Director shall establish and maintain within the Office the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and standardization of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain within the Office the professional and analytic capability to independently evaluate the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 32 of this Act. Such analytic capability shall include—

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables; and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.".

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"SEC. 35(a) The procedures and methodology of Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally-qualified persons of whom at least

"—one shall be designated by the Chairman of the Council of Economic Advisors;

"—one shall be designated by the Commissioner of Labor Statistics;

"—one shall be designated by the Administrator of Social and Economic Statistics;

"—one shall be designated by the Chairman of the Securities and Exchange Commission;

"—one shall be designated by the Chairman of the Federal Trade Commission;

"—one shall be designated by the Chairman of the Federal Power Commission; and

"—one, who shall be the Chairman of the Professional Audit Reveiw Team, shall be designated by the Comptroller General.

"(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provisions of law shall make available to the Team such data, information, documents and services as the Team determines are necessary for successful completion of its performance audit review.

"(d)(1) Any information obtained by the Professional Audit Review Team pursuant to the exercise of responsibilities or authorities under this section which constitutes trade secrets or confidential commercial information the disclosure of which could result in significant competitive injury to the company to which the information relates shall not be disclosed except as may be authorized by law.

"(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a) (3)B and (4) of the Emergency Petroleum Allocation Act of 1973, as amended.

"COORDINATION OF ENERGY INFORMATION ACTIVITIES

"SEC. 36. (a) In carrying out the purposes of Act the Director shall, as he deems appropriate, review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

"(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend polices which, to the greatest extent practicable,

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons and especially small businesses;

"(3) reduce the cost of Government of obtaining information; and

"(4) utilize files of information and existing facilities of established Federal agencies.

"(c)(1) At the earliest practicable date after enactment of this section, the Administrator shall identify each Federal agency which, to a significant extent, is engaged in the collection of energy information and shall by rule prescribe guidelines for the submission by each such agency of the report on energy information described in paragraph (2) of this subsection.

"(2) Each Federal agency identified pursuant to paragraph (1) of this subsection shall promptly provide the Administrator with a report on energy information which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency;

"(C) lists and describes the categories, definitions, levels of detail, and frequency of collection of the energy information collected by such agency; and

"(D) otherwise complies with the guidelines for such report prescribed by the Administrator pursuant to paragraph (1) of this subsection.

Such report shall be available to the Congress.

"(d) The recommendations of the Administrator for the coordination of Federal energy information activities shall be available to the Congress and shall be transmitted to the President for the use of the Energy Resources Council in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

"REPORTS

"SEC. 37. (a) The Director shall make regular periodic reports and may make special reports to the Congress and the public, including but not limited to—

"(1) Such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly and, as appropriate, weekly, supply and consumption of the various mineral fuels and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) An annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; energy consumption and supply trends and forecasts for subsequent one-, five-, ten-, fifteen-, and twenty-year periods under various assumptions; a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands; and a description of the extent of compliance and noncompliance by industry and other persons or entities subject to the rules and regulations of the Office.

"(b)(1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

"(c) The Director may not be required to obtain before publication the approval of any other officer or employee of the United States with respect to the substance of any

statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION FROM MAJOR ENERGY-PRODUCING COMPANIES

"SEC. 38 (a) For the purposes of this Act the Director shall designate 'major energy-producing companies' which alone or with their affiliates are involved in one or more lines of commerce in the energy industry so that the energy information collected from such major energy-producing companies shall provide a statistically accurate profile of each line of commerce in the energy industry in the United States.

"(b) The Administrator shall develop and make effective for use during the first full calendar year after enactment of this section the format for an energy-producing company financial report. Such report shall be designed to allow comparison on a uniform and standardized basis among energy-producing companies and shall permit—

"(1) an evaluation of company revenues, profits, cash flow, and investments in total, for lines of commerce in which such company is engaged and for all significant functions within such company;

"(2) an analysis of the competitive structure of sectors and functional groupings within the energy industry;

"(3) the segregation of energy information, including financial information, describing company operations by energy source and geographic area; and

"(4) the determination of costs associated with exploration, development, production, processing, transportation and marketing and other significant functions within such company; and

"(5) such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this Act.

"(c) The Director shall consult with the Chairman of the Securities and Exchange Commission with respect to the development of accounting practices to be followed by persons engaged in whole or in part in the production of crude oil and natural gas required by the Energy Policy and Conservation Act (Public Law 94–163) and shall endeavor to assure that the energy-producing company financial report described in subsection (b) of this section, to the extent practicable and consistent with the purposes and provisions of this Act, is consistent with such accounting practices where applicable.

"(d) The Director shall require each major energy-producing company to file with the Office an energy-producing company financial report on at least an annual basis and may request energy information described in such report on a quarterly basis if he determines that such quarterly report of information will substantially assist in achieving the purposes of this Act.

"(e) A summary of information gathered pursuant to this section accompanied by such analysis as the Director deems appropriate shall be included in the annual report of the Office required by subsection (b) of section 37 of this Act.

"(f) As used in this section the term—

"(1) "Energy-producing company" means a person engaged in any of the following:

"(A) Ownership or control of mineral fuel resources or nonmineral energy resources;

"(B) exploration for, or development of, mineral fuel resources;

"(C) extraction of mineral fuel or nonmineral energy resources;

"(D) refining, milling or otherwise processing mineral fuels or nonmineral energy resources;

"(E) storage of mineral fuels or nonmineral energy resources;

"(F) the generation, transmission or storage of electric energy;

"(G) transportation of mineral fuels or nonmineral energy resources by any means whatever; and

"(H) wholesale or retail distribution of mineral fuels, nonmineral energy resources or electrical energy;

"(2) "Energy industry" means all energy-producing companies; and

"(3) "Person" has the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 39(a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which would frustrate the enforcement of law.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

"CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

"SEC. 40. (a) Notwithstanding any other provision of this Act, the Director shall promptly provide any energy information in the possession of the Office to the Congress or to any duly established committee of the Congress upon request of the Chairman or upon receipt of a resolution adopted by such committee which request or resolution reasonably describes the information sought. Such information shall be deemed the property of such Committee and may not be disclosed except in accordance with the rules of such committee and the rules of the House of Representatives or the Senate and as permitted by law.

"(b) Nothing in this section shall be construed to in any way limit the access of the Congress to information in the possession of the Federal Energy Administration.

"EFFECTIVE DATE

SEC. 303. This title shall become effective 180 days after its enactment.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS—S. 1926

AMENDMENT NO. 1781

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, I submit an amendment on behalf of Mr. CHURCH. This amendment is intended to replace amendment No. 1710, submitted on May 27, 1976. Amendment No. 1710 authorizes the appropriation of funds for the upcoming transitional quarter. The amendment I am submitting on Mr. CHURCH's behalf today deletes the authorization for the transitional quarter, and moderately increases the authorization for fiscal year 1978.

NOTICE OF HEARINGS IN THE STATE OF IOWA

Mr. CLARK. Mr. President, on June 11, I will represent the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture and Forestry at field hearings in the State of Iowa.

The purpose of these hearings is to review the operation of soil conservation programs in the State, in order to help identify program strengths and weaknesses and pinpoint budget requirements for the coming year. The success of these programs is of particular concern at this time, because of the record percentages of land being put in production.

The hearings will consist of a morning session at the Leo Ryan, Jr., farm, near Council Bluffs, Iowa, and an afternoon session at the Homer Foster farm, near Sioux City, Iowa.

State-based USDA soil conservation officials, farm groups, county extension directors, and farmers from around the State are being invited to testify.

ADDITIONAL STATEMENTS

THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

Mr. TOWER. Mr. President, the Senate Committee on Banking, Housing and Urban Affairs has completed 3 days of hearings on S. 50: the so-called Full Employment and Balanced Growth Act. Better known as the Humphrey-Hawkins bill, this piece of legislation must be taken seriously because, as noted by Senator PROXMIRE at the beginning of the hearings, the Humphrey-Hawkins bill "is supported by every Democratic Presidential candidate with the possible exception of George Wallace." Today, I would like to summarize the testimony on Humphrey-Hawkins which was presented to the Banking Committee.

Humphrey-Hawkins would begin by establishing an institutional structure which would be used to greatly increase the role of Government planning in the economy. Increasing the role of Government planning, of course, means decreasing the role of the free market. In a working paper submitted for the record on S. 50, Dr. Murray L. Weidenbaum quotes from an analysis by John Jewkes of Britain's experiences with centralized planning.

"I believe that the recent melancholy decline of Great Britain is largely of our own making. . . . At the root of our troubles lies the fallacy that the best way of ordering economic affairs is to place the responsibility for all crucial decisions in the hands of the State."

In that same paper, Dr. Weidenbaum concludes:

National planning is a centralized process in which the key economic decisions are made in the form of governmental edicts. The greatest danger of adopting a form of centralized economic planning is that it will, perhaps unintentionally at first but inevitably as its initial results prove disappointing, propel the society away from market freedoms and toward greater governmental controls over individual behavior.

The Humphrey-Hawkins planning apparatus would initially develop a plan using Government spending, Government jobs, and expansion of the money supply to drive the unemployment rate for "adults" down to 3 percent or less within 4 years. However, Humphrey-Hawkins does not specify what constitutes "adult" unemployment. Some sup-

porters apparently feel that "adult" unemployment should be defined as the rate for persons 16 years old and older seeking work. Other supporters argue that "adult" unemployment should be defined as the rate for persons 18 years old and older.

Using the latter definition, it should be noted that the last year during which the unemployment rate for persons 18 years old and older averaged 3 percent or less was during the Korean war. Not even the inflationary Government spending and credit-creation policies of the Vietnam era were able to drive the unemployment rate down to 3 percent. Those policies were sufficient, however, to ignite and inflation that threw this country into its worst recession in 40 years. It should be remembered, too, that during both the Korean and Vietnam wars, there were over 3.5 million men in the Armed Forces, If "adult" unemployment were defined as the rate for persons 16 years old and older, the cost of the Humphrey-Hawkins policies in terms of inflation and in terms of the depth of the resulting recession would be much, much higher than the Vietnam era costs.

In testimony before the Banking Committee, Dr. John Kenneth Gailbraith states:

> At a four percent unemployment rate, there is no question, the American economy can be disastrously inflationary.

Dr. Galbraith was talking about an unemployment rate of 4 percent achieved through Humphrey-Hawkins-type policies, not a 3-percent rate as mandated by Humphrey-Hawkins. I agree with Dr. Galbraith that the policies called for in Humphrey-Hawkins would lead to a disastrous inflation, but I am not as pessimistic as Dr. Galbraith over the ability of the American economy to achieve a 4-percent or lower unemployment rate without rampant inflation or more Government controls. I am convinced that noninflationary full employment can be achieved without more Government controls if we concentrate on giving the private sector the incentives to create the needed jobs.

Under S. 50 the Government would be the "employer of last resort," and these supposedly "last-resort" jobs would be at a wage level equal to the higher of either the minimum wage or the wage paid by other employers to employees with similar job classifications. This sounds magnanimous on the surface, but the Banking Committee hearings revealed the insidious impact such an "employer-of-last-resort" program would have on the economy.

If the new public service employees were paid the higher of either the minimum wage or the wage paid by other employers to employees with similar job classifications, this would remove much, if not all, of the incentive for these Government employees to continue seeking employment in the private sector and would, thereby, create a huge new pool of permanent Government employees. Even worse, because Government jobs are generally viewed as less demanding and as providing more generous fringe benefits than private-sector jobs, unemployed workers would have a strong incentive to take one of the new Government jobs rather than to even try to find private-sector employment. Rather than creating an "employer-of-last-resort program," Humphrey-Hawkins would be likely to make the Federal Government into the "employer of first resort."

This "government-as-employer-of-first-resort program" also would fuel cost-push inflation. Federal Reserve Governor Charles Partee outlined why:

> Private labor markets would be tightened, and this would cause private employers to bid up wage rates in order to obtain and retain workers. Also, by making public jobs available at attractive wages as a matter of right, the program would encourage workers now employed in the private sector to press for even larger wage gains, or to transfer to governmental jobs. As an example, any construction project under this bill would pay the going union rate: but since a large proportion of building in the U.S. is nonunion, this wage would be higher than many construction workers now receive and would provide an alternative preferable to their existing jobs.

Such a cost-push inflation would reinforce the demand-pull inflation set off by the overly expansionary fiscal and monetary policies mandated by Humphrey-Hawkins.

Finally, the "government-as-employer-of-first-resort program" would slow economic growth. According to Alan Greenspan, Chairman of the Council of Economic Advisers:

> Such large scale public employment programs would entail a major increase in the number of workers committed to relatively low productivity jobs in the public sector. This would certainly slow the rise in overall productivity and hence in our standards of living. The programs would not contribute to the capital investment required to create the productive jobs needed to regain a sustainable high employment economy. Indeed, the heavy budget costs of funding the program would result in higher taxes on the productive private sector or greater budget deficits. This is likely to interfere with private savings and capital investment, and the badly needed increases in job supporting facilities. In short, we would be creating the types of problems which confront other countries where bloated public sector employment has become a serious impediment to growth, progress and stability. This approach has proven to be shortsighted and counter-productive.

This quotation from Mr. Greenspan's testimony, in addition to pointing out the unfortunate effect which Humphrey-Hawkins would have on economic growth and living standards, also notes the alternative ways of financing the vast increase in Government spending which Humphrey-Hawkins would entail. These alternatives would be higher taxes or larger deficits and more borrowing.

If the latter alternative is chosen and the surge in Government spending is financed by swelling the Federal deficit, the impact would be especially hard on capital investment. Dr. Alice M. Rivlin, Director of the Congressional Budget Office, estimated that the additional Government jobs called for in Humphrey-Hawkins could cost the Federal Government up to $44 billion. Others have noted that other estimates of the cost run as high as $100 billion.

Numerous studies have shown that, in coming years, the United States must substantially increase the proportion of its gross national product used for capital investment if the Nation is to achieve its goal of maximizing productive employment in the private sector and is to meet investment needs for energy, environmental protection, et cetera.

These same studies have concluded that, if the proportion of GNP used for capital investment is to be increased, the Federal Government will have to reduce its draw on the savings of the private sector; for these savings will be needed to finance the capital investment. This means that Government deficits must be reduced.

In sum, under the Humphrey-Hawkins bill, the Nation would have to choose between up to $100 billion in new taxes on the one hand and, on the other hand, reduced private-sector employment, insufficient investment in new energy sources, and inadequate investment in environmental protection. I am unwilling, myself, to leave this country with such a choice.

The Humphrey-Hawkins bill would not only foster unemployment by depressing capital investment. The inflation which would be spawned by S. 50 would be an even more pernicious destroyer of jobs. In fact, in his testimony, Alan Greenspan characterized inflation as "potentially the greatest destroyer of jobs of any major factor in the economy."

As the Humphrey-Hawkins inflation swelled the ranks of the unemployed, the Government would become the employer of an ever expanding percent of the work force and the cries for comprehensive wage and price controls would mount. The Government probably would be left with no choice but to impose comprehensive wage and price controls. Given the Humphrey-Hawkins-type policies for reducing unemployment, John Kenneth Galbraith told the Banking Committee:

> The only remaining alternative [for avoiding disastrous inflation] is direct intervention in wage bargaining and administered prices.

At this point the circle would be complete. A national economic planning framework would be in place. This framework would be needed to find tasks for the hordes of new Government employees and to administer the wage and price controls.

EDUCATIONAL BENEFITS FOR VIETNAM VETERANS

Mr. DURKIN. Mr. President, Memorial Day of this year passed with all the traditional wreath placing and patriotic speechmaking. But for 3.7 million American veterans of the Vietnam era it also marked the end of a golden opportunity.

I am referring to the GI bill of rights, and the education benefits which it offers to veterans who have set aside several of their most productive years to maintain the military strength of this great democracy.

The Committee on Veterans' Affairs this year recommended that those education payments be increased during the next fiscal year, to take into account the effects of inflation which have eroded the purchasing power of these benefits. This action was taken after the White

House refused to include such cost of living increases in its budget.

Unfortunately the White House did not not ask, nor did the Congress provide, for money to extend those educational benefits so that they could be used after the first 10 years following service discharge or release.

As a result on Memorial Day, the same day that speakers in every city and town were extolling the accomplishments and sacrifices of the American servicemen, 3.7 million veterans saw their education benefits slip away. Many of those 3.7 million had hoped to use those benefits some day when their careers and financial situations permitted. Many others will be caught by the deadline in the middle of their continued education, with the prospect of having to let their education drop, perhaps never to be picked up again.

To my mind, Mr. President, this has been a tragic oversight first on the part of the President, and then on the part of the Congress. What we are saying to American veterans is that we will help them as we should when they are old and infirm, when they are too sick and need a hospital, and when they die and are ready to be buried, but not when they want to make their best years most productive.

Several months ago, I introduced legislation which would rectify this injustice by saying that the GI education benefits would be vested with veterans for life, until exhausted. My colleague from New Hampshire, Mr. McINTYRE, joined me in cosponsoring that bill, and since then, Senators ABOUREZK, EASTLAND, HUDDLESTON, SPARKMAN, and LEAHY have joined us. The White House and the Congress, however, have seen fit to let the 10-year deadline pass this year without any action.

Now there seems to be some misunderstanding about what this Senator is trying to do. I realize that this proposal, or a proposal to extend the deadline for a limited period of time, is going to cost money. And I am fully aware that no money was included in the first budget resolution for these purposes, despite my own pleas and those of other Members.

But the first budget resolution is not written in stone, and there will be a second budget resolution to be voted in September to make corrections and changes. This should be one of them.

Second, I have received a constant barrage of letters, telegrams, phone calls and visits from school administrators and younger veterans who are frantic about this deadline and what it will do to the careers of thousands in New Hampshire alone. In the ideal, I would like to tell them that the Congress understands their plight and has recommended legislation to extend or eliminate the 10-year deadline. In the least, I would like to tell them that the Congress gave serious consideration to our proposal to eliminate the deadline.

But what these veterans cannot understand, Mr. President, is that Congress has failed to act. I detect a disturbing trend in the new budget process that congressional committees or individual Senators who want to avoid making hard decisions will pass the buck to the Budget Committee, and leave those brave gentlemen the unpleasant task of saying no. Then while everyone in Congress can raise their hands in despair, and while sympathizing with constituents and voters, protest that there is nothing that can be done.

Mr. President, the Constitution vests with the Congress and each of its members the responsibility of making the laws and overseeing their enforcement and administration. The power of the purse is essential to this process. And whether this Congress wants to admit it or not, the message we sent to the younger veterans of this Nation this Memorial Day was that we do not even have the guts to stand up and say yes or no on GI bill benefits.

Where will the money come to pay for such an extension or elimination of the deadline?

The simple answer is that it will come from the U.S. Treasury, which has found over the years that it has received 4 cents back for every penny it has invested in the GI education program—a good investment by any standard. Even the former bond salesman and economic ghoul now acting as Secretary of the Treasury would have to admit that the GI bill is a good investment. We would be penny wise and pound foolish if we cited fiscal conservatism as reason for not addressing this issue at this time.

But I need not inform the Members of this Senate that 10 years ago we were about to engage in the most misguided military adventure in American history. Year after year this Congress approved appropriations to send thousands of young Americans to Southeast Asia, where they shot and bombed and napalmed and maimed and destroyed in magnitudes never approached by any civilization. And year after year, these appropriations had the enthusiastic support of many current Members of the Congress and the current occupant of the White House.

That war cost us $140 billion, 56,900 American lives, and jeopardized the political and economic integrity of the United States at home and abroad, Mr. President. Thousands of American boys came through the war with minds and bodies permanently scarred from the experience.

We hopefully should have learned from that mistake. But in the same vein, we have an extraordinary obligation to those veterans who lived through that hell in Southeast Asia, whose 10-year education benefits expired this Memorial Day and will be expiring on Memorial Day over the next 6 or 7 years. That obligation is to invest in their future through continued training and education. We need to send them a signal that we will not forget what they did for this country, and what this country put them through.

It is time that President Ford and the Members of the Senate and House stopped hiding on this issue. We should have the same intestinal fortitude to stand up on this issue that many in this Congress expected of the young men that were sent off to fight, bleed, and die in the jungles of Southeast Asia.

THE LONG GRAY LINE

Mr. GOLDWATER. Mr. President, a large number of people from the military and civilian sectors of our country have been understandably disturbed and concerned by the reports of student cheating at our military academies and by charges that the honor code of the U.S. Military Academy at West Point was out of date. Some have said that it is unrealistic, in this day and age, to expect such high standards to be achieved by the young people of our country. I disagree.

Mr. President, to show another side of the character and dedication that I feel is typical of the corps of cadets at West Point, I would like to share with my colleagues a letter from Cadet Kevin Benson to his mother and father of Milwaukee, Wis. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 12, 1976.

MOM AND DAD: Lately, as you know, the Corps and West Point have been taking some pretty cheap shots and having some rough times.

Tonight, I was a participant in a ceremony/memorial that has convinced me beyond a doubt, this place, but more importantly the Corps, our spirit, will go on. Today, a firstie (he had less than 24 days before graduation) died. You won't read about this in any papers; somehow that would not be proper.

I do not know the circumstances; I don't think its really important.

The WHOLE UNITED STATES CORPS OF CADETS assembled outside Washington Hall and prayed for him. All lights in every barracks were turned out; we assembled in silence, stood in silence and departed in silence. The only thing that disturbed the silence was a bugler blowing Taps.

I really wish the New York Times, Philadelphia Inquirer and the others were there to witness that. They'd see how faltering the Long Gray line is, how much we've lost our honor, and how brutal we are. I don't believe any other school in the nation could turn out the whole student body for one man, but we did.

I'm sure he knows about it.

Love,

KEV.

GOVERNOR CARTER ON NUCLEAR PROLIFERATION

Mr. RIBICOFF. Mr. President, today the nuclear supplier nations reconvene in London for a second round of talks on controlling commercial nuclear exports to prevent the spread of nuclear weapons. Unless a meaningful agreement is reached and effective controls are implemented, the world may be headed toward a new Dark Ages in which plutonium replaces gunpowder as the explosive of choice, and warfare and terrorism take on a nuclear dimension.

I believe it is appropriate to mark the occasion of this historic conference by placing in the RECORD a recent address by the leading candidate for the Democratic Presidential nomination, Governor Carter, in which he made several important proposals for controlling the danger of nuclear proliferation. The address, "Nuclear Energy and World Order," was delivered at a conference of the same title that was held at the

United Nations on May 13 under the sponsorship of several foundations and nonprofit organizations.

Governor Carter correctly recognizes that the United States must take the lead role in controlling the spread of nuclear technology. While I have advocated even stronger sanctions than Governor Carter has suggested, nevertheless I am encouraged that a Presidential candidate has given this issue the priority consideration that it deserves. Hopefully, nuclear proliferation will become a major Presidential campaign issue, and in this way the American people can become better informed on the dangers and possible solutions to the problem.

I ask unanimous consent that Governor Carter's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

NUCLEAR ENERGY AND WORLD ORDER

(Address by Gov. Jimmy Carter at the United Nations, May 13, 1976)

Mr. Chairman, Mr. Director-General, Captain Cousteau, Ambassador Akhund, Dr. Ikle:

I have a deep personal concern with the subject of this conference today—"Nuclear Energy and World Order."

I have had training as a nuclear engineer, working in the United States Navy on our country's early nuclear submarine program. I learned how nuclear power can be used for peaceful purposes—for propelling ships, for generating electric power and for scientific and medical research. I am acutely aware of its potential—and its dangers. Once I helped in disassembling a damaged nuclear reactor core in an experimental reactor at Chalk River, Canada.

From my experience in the Navy and more recently as Governor of Georgia, I have come to certain basic conclusions about the energy problem. The world has only enough oil to last about 30 to 40 years at the present rate of consumption. It has large coal reserves—with perhaps 200 years of reserves in the United States alone. The United States must shift from oil to coal, taking care about the environmental problems involved in coal production and use. Our country must also maintain strict energy conservation measures, and derive increasing amounts of energy from renewable sources such as the sun.

U.S. dependence on nuclear power should be kept to the minimum necessary to meet our needs. We should apply much stronger safety standards as we regulate its use. And we must be honest with our people concerning its problems and dangers.

I recognize that many other countries of the world do not have the fossil fuel reserves of the United States. With the four-fold increase in the price of oil, many countries have concluded that they have no immediate alternative except to concentrate on nuclear power.

But all of us must recognize that the widespread use of nuclear power brings many risks. Power reactors may malfunction and cause widespread radiological damage, unless stringent safety requirements are met. Radioactive wastes may be a menace to future generations and civilizations, unless they are effectively isolated within the biosphere forever. And terrorists or other criminals may steal plutonium and make weapons to threaten society or its political leaders with nuclear violence, unless strict security measures are developed and implemented to prevent nuclear theft.

Beyond these dangers, there is the fearsome prospect that the spread of nuclear reactors will mean the spread of nuclear weapons to many nations. By 1990, the developing nations alone will produce enough plutonium in their reactors to build 3,000 Hiroshima-size bombs a year, and by the year 2000, worldwide plutonium production may be over 1 million pounds a year—the equivalent of 100,000 bombs a year—about half of it outside of the United States.

This prospect of a nuclear future will be particularly alarming if a large number of nations develop their own national plutonium reprocessing facilities with the capacity to extract plutonium from the spent fuel. Even if such facilities are subject to inspection by the International Atomic Energy Agency and even if the countries controlling them are parties to the Non-Proliferation Treaty, plutonium stockpiles can be converted to atomic weapons at a time of crisis, without fear of effective sanction by the international community.

The reality of this danger was highlighted by the Indian nuclear explosion of May, 1974, which provided a dramatic demonstration that the development of nuclear power gives any country possessing a reprocessing plant a nuclear weapons option. Furthermore, with the maturing of nuclear power in advanced countries, intense competition has developed in the sale of power reactors, which has also included the sale of the most highly sensitive technologies, including reprocessing plants. With the spread of such capabilities, normal events of history—revolutions, terrorist attacks, regional disputes, and dictators—all could take on a nuclear dimension.

Dr. Alvin Weinberg, former Director of the Oak Ridge National Laboratory and one of the most thoughtful nuclear scientists in the United States was properly moved to observe: "We nuclear people have made a Faustian bargain with society. On the one hand we offer an inexhaustible supply of energy, but the price that we demand of society for this magical energy source is both a vigilance and a longevity of our social institutions that we are quite unaccustomed to."

Nuclear energy must be at the very top of the list of global challenges that call for new forms of international action. The precise form which that action should take is the question to be addressed by this distinguished group of scientists, businessmen, diplomats and government officials during the next four days.

I would not presume to anticipate the outcome of your expert deliberations. But I suggest that new lines of international action should be considered in three main areas:

(1) action to meet the energy needs of all countries while limiting reliance in nuclear energy;

(2) action to limit the spread of nuclear weapons; and

(3) action to make the spread of peaceful nuclear power less dangerous.

1. We need new international action to help meet the energy needs of all countries while limiting reliance on nuclear energy.

In recent years, we have had major United Nations conferences on environment, population, food, the oceans and the role of women—with habitat, water, deserts, and science and technology on the schedule for the months and years immediately ahead. These are tentative first steps to deal with global problems on a global basis.

Critics have been disappointed with the lack of immediate results. But they miss an important point: a new world agenda is emerging from this process—an agenda of priority problems on which nations must cooperate or abdicate the right to plan a future for the human condition.

The time has come to put the world energy problem on that new agenda. Let us hold a World Energy Conference under the auspices of the United Nations to help all nations cope with common energy problems—eliminating energy waste and increasing energy efficiency; reconciling energy needs with environmental quality goals; and shifting away from almost total reliance upon dwindling sources of non-renewable energy to the greatest feasible reliance on renewable sources. In other words, we must move from living off our limited energy capital to living within our energy income.

Such a conference would have to be carefully prepared. Just as the World Food Conference provided us with a world food balance sheet, this conference could give us a world energy balance sheet. Just as the World Food Conference stimulated international cooperation in agricultural research and development, so a world energy conference could stimulate research and development in the field of energy.

Existing international ventures of energy cooperation are not global in scope. The International Energy Agency in Paris includes only some developed non-Communist countries. The Energy Commission of the Conference on International Economic Cooperation does not include countries such as the Soviet Union and China, two great producers and consumers of energy. And the International Energy Institute now under study does not call for a substantial research and development effort.

A World Energy Conference should not simply be a dramatic meeting to highlight a problem which is then forgotten. Rather, it should lead to the creation of new or strengthened institutions to perform the following tasks:

Improving the collection and analysis of worldwide energy information;

Stimulating and coordinating a network of worldwide energy research centers;

Advising countries, particularly in the developing world, on the development of sound national energy policies;

Providing technical assistance to train energy planners and badly needed energy technicians;

Increasing the flow of investment capital from private and public sources into new energy development; and

Accelerating research and information exchange on energy conservation.

An international energy effort would also be the occasion to examine seriously and in depth this fundamental question:

Is it really necessary to the welfare of our countries to become dependent upon a nuclear energy economy and if so, how dependent and for what purposes? Surely, there is a moral imperative that demands a worldwide effort to assure that if we travel down the nuclear road we do so with our eyes wide open.

Such a worldwide effort must also provide practical alternatives to the nuclear option. Many countries, particularly in the developing world, are being forced into a premature nuclear commitment because they do not have the knowledge and the means to explore other possibilities. The world's research and development efforts are now focused either on nuclear energy or on the development of a diminishing supply of fossil fuels.

More should be done to help the developing countries develop their oil, gas, and coal resources. But a special effort should be made in the development of small-scale technology that can use renewable sources of energy that are abundant in the developing world—solar heating and cooling, wind energy, and "biconversion"—an indirect form of solar energy that harnesses the sunlight captured by living plants. Using local labor and materials, developing countries can be helped to produce usable fuel from human and animal wastes, otherwise wasted wood, fast growing plants, and even ocean kelp and algae.

Such measures would be a practical way to help the poorest segment of humanity

whose emancipation from grinding poverty must be our continuing concern.

And all countries could reap benefits from worldwide energy cooperation. The costs to any one country would be small if they were shared among nations; the benefits to each of us from a breakthrough to new energy sources anywhere in the world would be great. We have tried international cooperation in food research and it has paid handsome dividends in high-yielding varieties of corn, wheat, rice and sorghum. We could expect similar benefits from worldwide energy cooperation.

The exact institutional formula for coping with energy effectively on a world level will require the most careful consideration. The IAEA is neither equipped nor staffed to be an adviser on energy across the board; nor would it be desirable to add additional functions that might interfere with its vitally important work on nuclear safeguards and safety.

One possibility to be considered at a World Energy Conference would be the creation of a new World Energy Agency to work side by side with the International Atomic Energy Agency in Vienna. A strengthened International Atomic Energy Agency could focus on assistance and safeguards for nuclear energy; the agency on research and development of non-nuclear, particularly renewable, sources.

2. We need new international action to limit the spread of nuclear weapons.

In the past, public attention has been focused on the problem of controlling the escalation of the strategic nuclear arms race among the superpowers. Far less attention has been given to that of controlling the proliferation of nuclear weapons capabilities among an increasing number of nations.

And yet the danger to world peace may be as great, if not greater, if this second effort of control should fail. The more countries that possess nuclear weapons, the greater the risk that nuclear warfare might erupt in local conflicts, and the greater the danger that these could trigger a major nuclear war.

To date, the principal instrument of control has been the Non-Proliferation Treaty which entered into force in 1970. By 1976 ninety-five non-weapons states had ratified the Treaty, including the advanced industrial states of Western Europe, and prospectively of Japan. In so doing, these nations agreed not to develop nuclear weapons or explosives. In addition they agreed to accept international safeguards on all their peaceful nuclear activities, developed by themselves or with outside assistance, under agreements negotiated with the International Atomic Energy Agency—a little appreciated, but an unprecedented step forward, in the development of international law.

Important as this achievement is, it cannot be a source of complacency, particularly under present circumstances. There are still a dozen or more important countries with active nuclear power programs which have not joined the Treaty. Hopefully, some of these may decide to become members; but in the case of several of them, this is unlikely until the underlying tensions behind their decision to maintain a nuclear weapons option are resolved.

The NPT was not conceived of as a one-way street. Under the Treaty, in return for the commitments of the non-weapons states, a major undertaking of the nuclear weapons states (and other nuclear suppliers in a position to do so) was to provide special nuclear power benefits to treaty members, particularly to developing countries.

The advanced countries have not done nearly enough in providing such peaceful benefits to convince the member states that they are better off inside the Treaty than outside.

In fact, recent commercial transactions by some of the supplier countries have conferred special benefits on non-treaty members, thereby largely removing any incentive for such recipients to join the Treaty. They consider themselves better off outside. Furthermore, while individual facilities in these non-treaty countries may be subject to international safeguards, others may not be, and India has demonstrated that such facilities may provide the capability to produce nuclear weapons.

As a further part of the two-way street, there is an obligation by the nuclear weapons states, under the Treaty, to pursue negotiations in good faith to reach agreement to control and reduce the nuclear arms race.

We Americans must be honest about the problems of proliferation of nuclear weapons. Our nuclear deterrent remains an essential element of world order in this era. Nevertheless, by enjoining sovereign nations to forego nuclear weapons, we are asking for a form of self-denial that we have not been able to accept ourselves.

I believe we have little right to ask others to deny themselves such weapons for the indefinite future unless we demonstrate meaningful progress toward the goal of control, then reduction, and ultimately, elimination of nuclear arsenals.

Unfortunately, the agreements reached to date have succeeded largely in changing the buildup in strategic arms from a "quantitative" to a "qualitative" arms race. It is time, in the SALT talks, that we complete the stage of agreeing on ceilings and get down to the centerpiece of SALT—the actual negotiation of reductions in strategic forces and measures effectively halting the race in strategic weapons technology. The world is waiting, but not necessarily for long. The longer effective arms reduction is postponed, the more likely it is that other nations will be encouraged to develop their own nuclear capability.

There is one step that can be taken at once. The United States and the Soviet Union should conclude an agreement prohibiting all nuclear explosions for a period of five years, whether they be weapons tests or so-called "peaceful" nuclear explosions, and encourage all other countries to join. At the end of the five year period the agreement can be continued if it serves the interests of the parties.

I am aware of the Soviet objections to a comprehensive treaty that does not allow peaceful nuclear explosions. I also remember, during the Kennedy Administration, when the roles were reversed. Then the U.S. had a similar proposal that permitted large-scale peaceful explosions. However, in order to reach an accord, we withdrew our proposal. Similarly, today, if the U.S. really pushed a comprehensive test ban treaty, I believe the United States and the world communitiy could persuade the USSR to dispose of this issue and accept a comprehensive test ban.

The non-proliferation significance of the superpowers' decision to ban peaceful nuclear explosions would be very great because of its effect on countries who have resisted the Non-Proliferation Treaty's prohibition of "peaceful" nuclear explosives, even through they are indistinguishable from bombs.

A comprehensive test ban would also signal to the world the determination of the signatory states to call a halt to the further development of nuclear weaponry. It has been more than a decade since the Limited Test Ban Treaty entered into force, and well over 100 nations are now parties to that agreement.

It now appears that the United States and the Soviet Union are close to an agreement that would prohibit underground nuclear tests above 150 kilotons. This so-called threshold test ban treaty represents a wholly inadequate step beyond the limited test ban. We can and should do more. Our national verification capabilities in the last twenty years have advanced to the point we no longer have to rely on on-site inspection to distinguish between earthquakes and even very small weapons tests.

Finally, such a treaty would not only be a demonstration on the part of the superpowers to agree to limit their own weapons development. As President Kennedy foresaw in 1963, the most important objective of a comprehensive treaty of universal application would be its inhibiting effect on the spread of nuclear weapons by prohibiting tests by every signatory state.

3. We need new international action to make the spread of peaceful nuclear power less dangerous.

The danger is not so much in the spread of nuclear reactors themselves, for nuclear reactor fuel is not suitable for use directly in the production of nuclear weapons. The far greater danger lies in the spread of facilities for the enrichment of uranium and the reprocessing of spent reactor fuel—because highly enriched uranium can be used to produce weapons; and because plutonium, when separated from the remainder of the spent fuel, can also be used to produce nuclear weapons. Even at the present early stage in the development of the nuclear power industry, enough materials are produced for at least a thousand bombs each year.

Under present international arrangements, peaceful nuclear facilities are sought to be safeguarded against division and theft of nuclear materials by the International Atomic Energy Agency in Vienna. As far as reactors are concerned, the international safeguards—which include materials accountancy, surveillance and inspection—provide some assurance that the diversion of a significant amount of fissionable material would be detected, and therefore help to deter diversion.

Of course, as the civilian nuclear power industry expands around the globe, there will be a corresponding need to expand and improve the personnel and facilities of the international safeguards system. The United States should fulfill its decade-old promise to put its peaceful nuclear facilities under international safeguards to demonstrate that we too are prepared to accept the same arrangements as the non-weapon states.

That would place substantial additional demands on the safeguards system of the IAEA, and the United States should bear its fair share of the costs of this expansion. It is a price we cannot afford *not* to pay.

But in the field of enrichment and reprocessing, where the primary danger lies, the present international safeguards system cannot provide adequate assurance against the possibility that national enrichment and reprocessing facilities will be misused for military purposes.

The fact is that a reprocessing plant separating the plutonium from spent fuel literally provides a country with direct access to nuclear explosive material.

It has therefore been the consistent policy of the United States over the course of several administrations, not to authorize the sale of either enrichment or reprocessing plants, even with safeguards. Recently, however, some of the other principal suppliers of nuclear equipment have begun to make such sales.

In my judgment, it is absolutely essential to halt the sale of such plants.

Considerations of commercial profit cannot be allowed to prevail over the paramount objective of limiting the spread of nuclear weapons. The heads of government of all the principal supplier nations hopefully will recognize this danger and share this view.

I am not seeking to place any restrictions on the sale of nuclear power reactors which sell for as much as $1 billion per reactor. I believe that all supplier countries are entitled to a fair share of the reactor market.

What we must prevent, however, is the sale of small pilot reprocessing plants which sell for only a few million dollars. have no commercial use at present, and can only spread nuclear explosives around the world.

The International Atomic Energy Agency itself, pursuant to the recommendations of the Non-Proliferation Treaty review conference of 1975, is currently engaged in an intensive feasibility study of multinational fuel centers as one way of promoting the safe development of nuclear power by the nations of the world, with enhanced control resulting from multinational participation.

The Agency is also considering other ways to strengthen the protection of explosive material involved in the nuclear fuel cycle. This includes use of the Agency's hitherto unused authority under its charter to establish highly secure repositories for the separated plutonium from non-military facilities, following reprocessing and pending its fabrication into mixed oxide fuel elements as supplementary fuel.

Until such studies are completed, I call on all nations of the world to adopt a voluntary moratorium on the national purchase or sale of enrichment or reprocessing plants. I would hope this moratorium would apply to recently completed agreements.

I do not underestimate the political obstacles in negotiating such a moratorium, but they might be overcome if we do what should have been done many months ago—bring this matter to the attention of the highest political authorities of the supplying countries.

Acceptance of a moratorium would deprive no nation of the ability to meet its nuclear power needs through the purchase of current reactors with guarantees of a long-range supply of enriched uranium. Such assurances must be provided now by those supplied countries possessing the highly expensive facilities currently required for this purpose.

To assure the developing countries of an assured supply of enriched uranium to meet their nuclear power needs without the need for reprocessing, the United States should, in cooperation with other countries, assure an adequate supply of enriched uranium.

We should also give the most serious consideration to the establishment of centralized multinational enrichment facilities involving developing countries' investment participation, in order to provide the assured supply of enriched uranium. And, if one day their programs economically justify use of plutonium as a supplementary fuel, similarly centralized multinational reprocessing services could equally provide for an assured supply of mixed oxide fuel elements.

It makes no economic sense to locate national reprocessing facilities in a number of different countries. In view of economies of scale, a single commercial reprocessing facility and a fuel fabrication plant will provide services for about fifty large power reactors. From an economic point of view, multinational facilities serving many countries are obviously desirable. And the colocation of reprocessing, fuel fabrication and fuel storage facilities would reduce the risk of weapons proliferation, theft of plutonium during transport, and environmental contamination.

There is considerable doubt within the United States about the necessity of reprocessing now for plutonium recycle. Furthermore, the licensing of plutonium for such use is currently withheld pending a full scale review by the Nuclear Regulatory Commission of the economic, environmental, and safeguards issues. And there is a further question to be asked: If the United States does not want the developing countries to have commercial plutonium, why should we be permitted to have it under our exclusive control?

Surely this whole matter of plutonium recycle should be examined on an international basis. Since our nation has more experience than others in fuel reprocessing, we should initiate a new multinational program designed to develop experimentally the technology, economics, regulations and safeguards to be associated with plutonium recovery and recycle. The program could be developed by the U.S. in cooperation with the International Energy Agency.

If the need for plutonium reprocessing is eventually demonstrated—and if mutually satisfactory ground rules for management and operation can be worked out, the first U.S. reprocessing plant which is now nearing completion in Barnwell, South Carolina, could become the first multinational reprocessing facility under the auspices of the International Atomic Energy Agency. Separated plutonium might ultimately be made available to all nations on a reliable, cheap, and non-discriminatory basis after blending with natural uranium to form a low-enriched fuel that is unsuitable for weapons making.

Since the immediate need for plutonium recycle has not yet been demonstrated, the start-up of the plant should certainly be delayed to allow time for the installation of the next generation of materials accounting and physical security equipment which is now under development.

One final observation in this area: We need to cut through the indecision and debate about the long-term storage of radioactive wastes and start doing something about it. The United States could begin by preparing all high-level radioactive wastes currently produced from our military programs for permanent disposal. Waste disposal is a matter on which sound international arrangements will clearly be necessary.

The nuclear situation is serious, but it is not yet desperate. Most nations of the world do *not* want nuclear weapons. They particularly do not want their neighbours to have nuclear weapons, but they understand that they cannot keep the option open for themselves without automatically encouraging their neighbours to "keep options open" or worse.

It is this widespread understanding that it is *not* in the interest of individual nations to "go nuclear" which we must use as the basis of our worldwide efforts to control the atom. We must have negative measures—mutual restraint on the part of the producers and suppliers of nuclear fuel and technology. But these negative measures must be joined to the larger, positive efforts of the non-nuclear weapon states to hold the line against further proliferation.

The recent initiative of the Finnish Government along these lines deserves commendation. The Finns have urged a compact among the purchasers of nuclear fuel and technology to buy only from suppliers who require proper safeguards on their exports.

This proposal would convert the alleged advantages to a supplier of breaking ranks and offering "bargains" in safeguards into a commercial disadvantage. Instead of broadening his market by lowering his standards, the supplier would narrow it. There would be fewer purchasers for his dangerous merchandise than if he maintained a common front on safeguards with other suppliers. There would be competition to offer to buyers the safest product at the best price.

Most important, the Finnish proposal would plainly put the full weight of the non-nuclear world into the effort against proliferation. It would make it evident that this struggle is not a struggle by the nuclear "haves" to keep down the nuclear "have-nots"; it would be a common effort by all mankind to control this dangerous technology, to gain time so that our political structures can catch up with sudden, enormous leaps in our technical knowledge, to turn us around and head us in the right direction—toward a world from which nuclear weapons and the threat of nuclear war have been effectively eliminated. That may be a distant goal—but it is the direction in which we must move.

I have talked to you today about the need for new international action in three areas—action to meet the energy needs of all countries while limiting reliance on nuclear energy, action to limit the spread of nuclear weapons, and action to make the spread of peaceful nuclear power less dangerous.

Of one thing I am certain—the hour is too late for business as usual, for politics as usual, or for diplomacy as usual. An alliance for survival is needed—transcending regions and ideologies—if we are to assure mankind a safe passage to the twenty-first century.

Every country—and the United States is no exception—is concerned with maintaining its own national security. But a mutual balance of terror is an inadequate foundation upon which to build a peaceful and stable world order. One of the greatest long-term threats to the national security of every country now lies in the disintegration of the international order. Balance of power politics must be supplemented by world order politics if the foreign policies of nations are to be relevant to modern needs.

The political leaders of all nations, whether they work within four year election cycles or five year plans, are under enormous temptations to promise short-term benefits to their people while passing on the costs to other countries, to future generations, or to our environment. The earth, the atmosphere, the oceans and unborn generations have no political franchise. But short-sighted policies today will lead to insuperable problems tomorrow.

The time has come for political leaders around the world to take a larger view of their obligations, showing a decent respect for posterity, for the needs of other peoples and for the global biosphere.

I believe the American people want this larger kind of leadership.

In the last two years, I have visited virtually every one of our fifty states. I have found our people deeply troubled by recent developments at the United Nations. But they do *not* want to abandon the UN—they want us to work harder to make it what it was created to be—not a cockpit for controversy but an instrument for reconciling differences and resolving common problems.

And they want UN agencies to demonstrate the same commitment to excellence, impartiality and efficiency they are demanding of their own government.

We want to cooperate—not simply debate. A joint program—whether on nuclear energy or other global problems—is infinitely preferable to sustained and destructive polemics. Our desire for global cooperation is prompted by America's confidence in itself, in our capacity to engage in effective cooperation, and upon the moral imperative that as human beings we must help one another if any of us is to survive on this planet.

The nuclear age, which brings both sword and plowshare from the same source, demands unusual self-discipline of all nations. If we approach these problems with both humility and self-discipline, we may yet reconcile our twin goals of energy sufficiency and world order.

SECRETARY KISSINGER'S AFRICAN POLICY

Mr. GARN. Mr. President, in a few days the Senate will return to consideration of the Foreign Military Sales Act, and further discussion of the African policy outlined by Secretary of State Henry A. Kissinger in Lusaka in April. Also pending is Senate Resolution 436,

the resolution introduced by Senator CHARLES PERCY to commit the Senate to support of the policy. I would like to take a few moments today to state, as clearly as I can, my position on the resolution, and on the African policy it is designed to support.

It has been my observation, over the years, Mr. President, that the United States has had no African policy, and in a sense, it is good that at last a debate has been started. As the empires of our friends and allies in Europe crumbled, we took no official position, except insofar as our support for the United Nations constituted a stance in favor of independence. Of course, a significant share of the intellectual community in the United States was always strongly in favor of independence and self-determination, often erroneously equating self-determination with democracy and freedom. A smaller group of intellectuals warned that the withdrawal of European stability would leave a power vacuum which would inevitably be filled, and probably not to our advantage, given our own reluctance to fill it. The Angolan episode is merely one more example of the fulfillment of that warning. We see, in fact, a significant Soviet influence in many African nations. To be sure, the Soviets have not been without their setback in Africa.

The appointment of Daniel Patrick Moynihan to the United Nations did seem to promise a cohesive African policy. During his tenure there, Ambassador Moynihan coupled an unrelenting scorn and opposition to the white supremacist governments of South Africa and Rhodesia with a bluntly realistic treatment of the black governments in the rest of sub-Saharan Africa. The Ambassador dealt with all African nations as equals, neither condoning their excesses nor excusing their obvious faults.

In this context, then, the policy enunciated in Lusaka appears woefully inadequate logically and morally. What exactly motivates it? Is it opposition to minority rule? Clearly not. Secretary Kissinger made his speech flanked by Kenneth Kuanda, who rules without opposition, since his political opponents are in jail. Is it opposition to racial tyrrany? No, because Secretary Kissinger had no condemnation for Idi Amin of Uganda, whose dispossession of the Asian minorities in Uganda was of an excessive brutality.

The Lusaka Policy, then has little to recommend it. It is a belated effort to show black Africans that we don't want them oppressed, by whites anyway. It has little real prospect of preventing further incursions of Soviet influence into the continent. Indeed, in my view, it will provoke more intervention, since it can only increase the already considerable instability in Southern Africa. What the Secretary did, Mr. President, is to declare stability in Southern Africa to be no business of the United States. In my observation, where stability is not our business, instability becomes the business of the Soviet Union.

Procedurally, Mr. President, Secretary Kissinger's action poses other problems. It is the constitutional duty of the Senate of the United States to advise the Executive on the conduct of foreign policy, and to consent to concrete manifestations of it. Now I recognize the difficulty of consulting with a body of 100 disparate souls. Still it appears to me that some discussions could have been had with the Senate, or with individual Senators, before the launching of a major departure in foreign policy such as the Lusaka speech was.

That is particularly true, Mr. President, in view of the fact that the Congress of the United States is clearly on record as opposing one major aspect of the Lusaka Policy. That is the participation of the United States in the embargo of Rhodesian chrome. By its adoption of the Byrd amendment in 1971, agreed to by the Senate, the United States committed itself to a certain direction in foreign policy. The Lusaka Policy, as enunciated by Secretary Kissinger, would clearly change the direction of that policy; such a shift should clearly not be taken without adequate consultation.

Instead, Mr. President, the Lusaka speech was delivered without warning to the Congress. It commits us to a course that it is not clear that we should or will follow. At the least, it appears to be an attempt to coerce the Senate, an attempt that this Senator resents. Because of the complex nature of our Government, it is easy for foreign governments to misunderstand the impact of declarations of this sort by the executive branch. For that reason, it would seem to be prudent for the Executive to bring on board as much of the Senate as possible before announcing new departures. We see the same problem at work in Panama.

What I am leading up to Mr. President, is an announcement that I find the Lusaka policy very difficult to defend, and premature to say the least. Secretary Kissinger has told us before that the internal affairs of such nations as the Soviet Union are not the business of the U.S. Senate, and it is disconcerting now to see him so concerned about the internal affairs of such nations as Rhodesia. The inconsistency is glaring. If our opposition is to minority rule, it is hard to explain our financial support for Mozambique, announced by the Secretary, again without consultation with the Senate, and without legislation to back it up.

For all of these reasons, Mr. President, I would like to be clearly on record as opposing the policy toward Southern Africa enunciated by Secretary of State Kissinger in April, and against the Percy resolution introduced in support of that policy. My hope is that these instruments will die the quiet death they deserve.

RECOGNITION OF HUMANITARIAN EFFORTS OF JOHN BLOOMER, EDITOR, BIRMINGHAM NEWS

Mr. ALLEN. Mr. President, I am pleased to bring to the attention of the Senate the humanitarian efforts of an outstanding Alabamian, Mr. John Bloomer, who is editor of the Birmingham News, Alabama's largest newspaper and one of America's finest daily newspapers. Mr. Bloomer was a central figure in organizing the delivery of relief supplies and services that have put Guatemala back on the road to recovery from the recent natural disaster which it suffered. As Senators will recall, Guatemala, which is Alabama's Latin American partner in the partners of the Americas program, was stricken by a major earthquake on February 8, 1976.

Mr. Bloomer's response and help were immediate. He spared no effort in requesting, securing, and delivering equipment, supplies, medicines, and funds to aid the people of Guatemala to the road to recovery. He personally coordinated the packing and the transporting of two Alabama emergency hospitals that Gov. George C. Wallace made available for Guatemala. For his ability to organize emergency action and produce relief to the citizens of Guatemala, Mr. Bloomer was honored on April 16, by the Medical Association of the State of Alabama. For his contributions to the betterment of human life in the Western Hemisphere he received on May 12 a citation from Gov. George C. Wallace. For his compassion and strength in performing work of substantial value to his community over and beyond normal scope and at considerable personal sacrifice, he was honored on April 27 by the Altrusa Club of Birmingham, Ala., and was entered as that organization's nominee for the Young Men's Business Club of Birmingham's "Man of the Year Award."

Mr. President, details of Mr. Bloomer's contributions to assist his fellowmen appear in news stories in the April 16 and May 12 editions of the Birmingham News and in the program for the "Man of the Year" awards banquet on April 27.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

QUALIFICATIONS FOR NOMINATIONS FOR "MAN OF THE YEAR"

A nominee must either reside or have his place of business in greater Birmingham.

A nominee must have performed outstanding work of substantial value to this community in 1975 over and beyond the normal scope of his professional duties.

A nominee is expected to have made considerable personal sacrifice in the performance of this work.

Nominees for the honor of Man of the Year are accepted from Civic Organizations and individuals from all of greater Birmingham. Their qualifications are submitted to a secret select committee or selection of the Man of the Year. The Secret Selection Committee is composed of members from all walks of life. The members of this committee are not members of the Young Men's Business Club and their names are never made public, therefore they have complete freedom in the selection of the nominee they honestly feel to most deserve the honor of recognition as Birmingham's Man of the Year.

JOHN W. BLOOMER

John W. Bloomer, editor of The Birmingham News, is nominated by the Altrusa Club.

He is president of the Alabama Partners of the Americas and was primarily responsible for securing two hospital units that provided aid to victims of the Guatemala earthquake.

Mr. Bloomer is vice president of the Alabama Lung Association, and a member of

the standing committee on public education, Alabama Division, American Cancer Society. He serves on the board of the Warrior-Tombigbee Development Association, is communications vice president for the Birmingham Area Chamber of Commerce, and is chairman of the Alabama Environmental Quality Association.

BLOOMER TO RECEIVE HONOR FOR LEADERSHIP IN QUAKE RELIEF WORK

(By the Kate Harris)

MONTGOMERY.—The Medical Association of the State of Alabama (MASA) will present John W. Bloomer, editor of The Birmingham News, a special award tonight for lay services to humanity.

Dr. Vernon Stabler, MASA president who will make the presentation, said Bloomer is being cited "for his outstanding leadership in coordinating emergency relief efforts for the earthquake victims of Guatemala."

When the earthquake hit Guatemala last February, Bloomer in his capacity as president of Alabama-Guatemala Partners of the Americas was called upon to help the thousands of injured and homeless.

"Through this organzation, medical aid and needed drugs and other supplies were channeled into the country," said Stabler. "He demonstrated exceptional interest and feeling for his fellow man."

Through the Partners of the Americas many Alabama cities for several years have had "sister" cities in Guatemala and are now able to give special assistance to these municipalities.

Also to be honored tonight are Dr. Dewey White Jr., of Birmingham, a member of the Legislature, who will receive the Samuel Buford Word Award for service to humanity by a physician.

Jefferson County Deputy Health Officer Guy Tate Jr. will be presented the William Henry Sanders Award for outstanding service in the public health field.

The William Crawford Gorgas Award, citing a layman for his accomplishments in the field of health, will go to Thomas D. Russell of Alexander City.

Receiving the Douglas L. Cannon Medical Reporter Awards will be Jay Lewis, WSFA-TV, Montgomery; Dave Campbell, WAPI Radio, Birmingham; Bob Rowe, WYDE Radio, Birmingham; and David Marshall, The Tuscaloosa News.

The awards dinner also will be the setting for the introduction of 22 physicians into the 1976 Fifty-Year Club, established to honor doctors who have practiced medicine for half a century.

Keynote speaker will be Dr. George Schweitzer, University of Tennessee chemistry professor.

Speaking at a prayer breakfast Friday will be Rev. Ben Smith, chaplain of the University of Alabama in Birmingham Medical Center.

WALLACE CITES NEWS' BLOOMER FOR HEADING GUATEMALA QUAKE AID

(By Al Fox)

MONTGOMERY.—John W. Bloomer, editor of The Birmingham News, was cited Tuesday by Gov. George Wallace for his leadership of volunteer efforts to aid earthquake-stricken Guatemala. Then the governor accepted the honorary chairmanship of the Alabama Partners of the Americas.

Wallace also pledged to Bloomer that he and his wife, Cornelia, plan to go to Guatemala this summer for the dedication of a rehabilitation hospital being erected by Alabamians for paraplegic victims of the earthquake.

The presentation of the certificate of appreciation to Bloomer was made in a surprise ceremony in Wallace's office at the Capitol.

The new paraplegic rehabilitation hospital being erected by Alabamians, Bloomer said, will be adjacent to Guatemala City's Roosevelt Hospital constructed during World War II for rehabilitation of American servicemen and turned over to the Guatemala government in 1946.

The Partners of the Americas in an alliance between the United States and Latin American countries which was originated in the early 1960's, during the administration of the late President John F. Kennedy.

Alabama's Latin American partner is Guatemala, and 13 cities in Alabama have sister cities in Guatemala.

Bloomer told Wallace that he accepted the citation on behalf of the thousands of Alabamians who aided in the effort to provide relief assistance for Guatemala, especially Mrs. Thomas Strong, office manager for the editorial department of The News.

The governor said the president of Guatemala had written him that "when the big silver bird from Alabama (a National Guard plane) landed, I had tears in my eyes and hope in my heart."

He also told Bloomer that he had received a call from the Guatemalan ambassador while on the presidential campaign trail in Florida, expressing his nation's gratitude for Alabama's participation led by Bloomer.

Among the items on the Alabama plane were two completely equipped field hospitals in addition to emergency medical supplies.

The governor pointed out that later shipments to Guatemala under efforts directed by Bloomer were clothes, food, blood, additional medical supplies and other necessities for a ravaged nation.

The citation to Bloomer said he "had a highest degree of concern and compassion for his fellowman," and "is at the forefront of most charitable and civic causes in his own community, in addition to the many contributions he has made to people throughout Alabama."

"Through his dedication and hard work in providing disaster relief to the people of Guatemala following the terrible earthquake of 1976, Alabama was the first state to arrive on the scene with emergency medical and relief equipment.

"His immediate response during times of emergency illustrates his qualities of leadership and his inborn sincerity of wanting to help those less fortunate."

GAO REPORT URGING CONGRESS TO STRENGTHEN REVENUE SHARING CIVIL RIGHTS PROVISIONS

Mr. GLENN. Mr. President, last July I participated in hearings on revenue sharing conducted by the Senate Government Operations Subcommittee on Intergovernmental Relations. At that time we heard testimony from the General Accounting Office indicating the need for substantial strengthening of the civil rights provisions of the Revenue Sharing Act.

These hearings were followed by reports by the House Committee on the Judiciary, the U.S. Commission on Civil Rights, and private groups such as the League of Women Voters, the NAACP, the National Urban Coalition, and the Southern Regional Council all documenting a sorry record of civil rights enforcement as practiced by the Office of Revenue Sharing—ORS.

I am pleased that the House Government Operations Committee has already made significant legislative attempts to strengthen revenue sharing civil rights protections. The need for doing so is made all the more clear by the GAO report just issued this week which clearly documents the existence of a major loophole in the 1972 Revenue Sharing Act permitting the circumvention of nondiscrimination provisions by recipient governments.

Because of their "no strings" nature, ORS funds are often interchangeable with other funds and are thus nontraceable. Thus, the GAO points out, ORS funds may be placed in a general purpose fund that is used to support discriminatory activity and it will not be apparent which of the commingled funds are being spent in a discriminatory manner. Federally financed discrimination in employment and in the provision of services has often been the result.

According to the report, such discrimination also has resulted simply from ORS slowness and inaction in all facets of the civil rights area.

To help combat these weaknesses in a program that for the past 5 years placed $30.2 billion of taxpayer money into the hands of local government, I introduced S. 3173, the State and Local Fiscal Assistance Act of 1976 on March 18 of this year. This bill, cosponsored by Senators HUMPHREY and MANSFIELD, attempts to put teeth into the revenue sharing civil rights provisions by: First, prohibiting local governments that receive revenue-sharing funds from discriminating not only in programs funded by revenue-sharing receipts but also in programs using funds that have been commingled with revenue-sharing funds; and second, by mandating prompt cutoff of funds by ORS if proceedings by the Office support discrimination allegations.

As the Finance Committee considers the extension of revenue sharing, I strongly urge concurrent consideration of the provisions of S. 3173. I believe that the bill can substantially remedy a real weakness in our national struggle for equal opportunity.

I ask unanimous consent that a digest of the GAO report and an article by Warren Brown on the report that appeared in the Washington Post on Thursday, June 3, 1976, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL'S REPORT TO THE HOUSE COMMITTEE ON THE JUDICIARY

DIGEST

The Revenue Sharing Act is administered by the Office of Revenue Sharing, Department of the Treasury. It prohibits discrimination based on race, color, national origin, or sex in programs or activities wholly or partially funded with revenue sharing moneys.

STRENGTHENING THE NONDISCRIMINATION PROVISION

A recipient government can unintentionally circumvent the nondiscrimination provision simply by using revenue sharing funds to free its own funds for other uses which will thus not be restricted by the Revenue Sharing Act. GAO therefore recommends that the Congress amend the act's nondiscrimination provision to prohibit a recipient State or local government from discrimination in any of its programs or activities—regardless of the source of funds.

GAO notes that the nondiscrimination provisions in well over 100 Federal laws are inconsistent. These nondiscrimination provisions vary considerably in both the type of discrimination that is prohibited (employ-

ment, availability of facilities and services, etc.) and the individuals or groups against which discrimination is prohibited (handicap, race, sex, creed, age, etc.).

Because of the broad flexibility a government has in using revenue sharing funds and the ease with which the funds can be substituted for a government's revenues from other sources, the impact of revenue sharing can occur in almost any of a government's programs or activities. Revenue sharing may thus indirectly support programs that are partially financed by other Federal assistance which prohibits discrimination of a type allowed under the Revenue Sharing Act. Therefore, GAO recommends that the Congress broaden the nondiscrimination provision to prohibit, in all of the recipient government's programs and activities, the types of discrimination that are prohibited by laws applicable to other Federal assistance.

The Office or Revenue Sharing said it had serious reservations concerning these recommendations to broaden the nondiscrimination provision because of the burden they would place on its resources and the lack of evidence that accounting manipulations are widely used to avoid the nondiscrimination requirements. GAO agreed that if the act were broadened, the Office would have to devote additional effort to enforcing nondiscrimination; but because certain generalized civil rights responsibilities have already been placed elsewhere in the Federal Government, the Office should be able to limit the extent of its increased effort by close cooperation with other agencies.

IMPROVING ENFORCEMENT

The Office of Revenue Sharing's nondiscrimination enforcement has been too narrowly focused in relying almost exclusively on discrimination complaints as indicators of potential violations of the act. An adequate civil rights enforcement program should also include selected reviews or audits to determine compliance with prohibitions against discrimination.

Although the Office has conceived of such a program, including use of the existing State and local audit system, cooperation with other Federal and State agencies, a sample audit plan, and a complaint processing system, the concept has not been carried out because of inadequate internal controls, an increasing workload, and insufficient staffing.

As of December 31, 1974, the Office had opened 109 civil rights cases. Ninety-eight of these cases were based on complaints from private citizens, national civil rights organizations, State and local interest groups, legal service groups, and local public officials. The remaining 11 cases were opened because of information from the Department of Justice on pending litigation, office compliance audits, and newspaper articles.

The Office's processing of these cases and its monitoring of affirmative actions by governments found not complying with the act's nondiscrimination provision have been characterized by excessive delays, and processing time is apparently increasing. The 43 cases that had been closed as of June 30, 1975, had an average processing time of 10 months. But 60 of the cases still open as of June 30, 1975, had already been open an average of 12 months. Further, GAO identified 7 closed cases and 50 open cases where a delay of 6 months or more occurred in 1 or more of the 6 major case processing stages. (See app. IV.)

Many of the delays were due to insufficient systematic procedures to alert staff to delinquent actions requiring immediate attention. Also contributing to the delays has been the small number of civil rights specialists who not only performed administrative tasks in Washington, D.C., but conducted field investigations, sample audits, and other civil rights tasks throughout the country.

GAO recommends that the Secretary of the Treasury improve procedures and controls to alert the Office of Revenue Sharing of delinquent civil rights cases requiring immediate attention. The Office agreed that additional controls were necessary and installed computerized control over the status of cases and established time frames within which specified processing actions must be taken.

GAO also recommends that the Congress and the Secretary of the Treasury authorize additional staff for the Office's civil rights branch to deal with its substantial workload. The Office should determine the staff needed in addition to the 10 specialists authorized for fiscal year 1976, by assessing its current needs and planned enforcement program. The Office agreed that additional staff is needed to achieve improved enforcement of the nondiscrimination provision and stated that a request for increased staffing levels is now pending in the Appropriations Committees of both the Senate and the House of Representatives.

[From the Washington Post, June 3, 1976]

GAO HITS BIAS LOOPHOLE IN REVENUE SHARING LAW

(By Warren Brown)

The General Accounting Office urged Congress yesterday to close a loophole in the revenue sharing law that the agency said, permits municipalities to practice race and sex discrimination without losing federal funds.

The GAO, Congress' investigative arm, said in a report to the House Judiciary Committee that the current nondiscrimination provision of the Revenue Sharing Act of 1972 "can be easily circumvented by recipient governments."

"A recipient government can unintentionally or intentionally circumvent the nondiscrimination provision simply by using revenue sharing funds to free its own funds for other uses, which will thus not be restricted by the revenue sharing act," the GAO said.

The agency said the law should be amended to "prohibit a recipient state or local government from discrimination in any of its programs or activities—regardless of the source of revenues used to finance such programs and activities."

The revenue sharing act, which became effective in January 1972, will have pumped nearly $30.2 billion into 39,000 state and local government budgets by the time it expires at the end of this calendar year.

Congress is debating if, for how long, and in what form it should extend the act. The GAO, with its 117-page report, is the latest of a number of government and private organizations to join the debate.

If the program is continued, the GAO said Congress also needs to strengthen the nondiscrimination enforcement arm of the Office of Revenue Sharing (ORS), which is responsible for administering the act.

The GAO said a review of 109 discrimination cases handled by the office between 1972 and Dec. 31, 1974, showed that ORS enforcement efforts have been hampered by "inadequate controls, an increasing workload, and inadequate staffing, which have excessively delayed resolution of civil rights cases."

Employment practices were questioned in 80 of the 109 cases. Police and fire departments were the targets of complaints in about two-thirds of the employment disputes, the GAO said.

In 1976, nearly 200 cases—involving allegations of race and sex discrimination, and discrimination against the handicapped—have been received by the ORS, according to the GAO.

The agency recommended that Congress increase the ORS staff "to improve its overall civil rights program."

That recommendation was welcomed by Priscilla Crane, spokesman for ORS.

"We've only had five—five—civil rights specialists to handle 39,000 jurisdictions," she said last night. "We need more help, but I think we've done a pretty darned good job with what we have."

MISSILES TO JORDAN

Mr. CASE. Mr. President, a great deal of misinformation has been circulating in the press and in other circles about the difficulties in the proposed sale of American-made Hawk missiles to Jordan. There is more than a hint that Congress will be to blame if the Jordanians turn to the Soviets to purchase surface-to-air missiles and other weapons.

It is time to put the record straight.

The effort of Congress last year in this matter pursuant to its statutory responsibility to scrutinize major arms sales, was to work out an arrangement that would neither damage our relations with Jordan nor upset the arms balance in the Middle East. A satisfactory agreement was achieved, taking into account our relations with Jordan and the compelling evidence that an uncontrolled sale of an extensive mobile Hawk system to Jordan would tend to seriously destabilize the military situation.

After the President last year agreed in writing to meaningful restrictions, accepted by Jordan, on the mobility, deployment and technical characteristics of the Hawk missile system to be sold to Jordan, Congress agreed to the proposed sale. In December, 1975, after the President's action cleared the way, the King of Jordan signed the contract for the Hawk missile system.

American technical teams later visited Jordan and began to develop the infrastructure for the Hawk system. Following the return to the United States of the first technical field team. I was able to report to the Foreign Relations Committee that the conditions were being honored.

However, by February there were rumors of serious obstacles. The first indications surfaced in press reports of a drastic increase in the costs of the project.

The State Department later told us of what it called this "increase in price." The Defense Department, directly involved in the weapons discussions, provided another version which differed with the State Department's.

The Defense Department version made it clear that the list of prices for the equipment to be provided under the contracts approved by Congress had not increased, except for some relatively minimal training costs.

What had happened was that the State Department and the Government of Jordan expanded the original program and had contemplated additional expenditures far above the original program limits, including equipment not related to the Hawk missile system. Furthermore, the proposed additional expenditures, which would raise the total program nearly three times the original costs, were being resisted by the Saudi Arabians who had agreed to finance the original package.

These developments did not involve Congress in any way. Indeed, Congress

was not even consulted about the proposed expenditures until the last week of May, after the Saudis had declined to pay for them, though it now appears that the State Department knew of the Saudi reluctance much earlier and had been increasingly worried about Jordanian discussions with the Soviets as an alternate arms supplier.

I deeply regret any possible arms deal between Moscow and Amman. Such an arms deal would endanger the cause of peace in the Middle East and the independence of Jordan itself. I can only speculate about why Jordan and the State Department decided to try to expand upon the original program and why the Jordanians are holding discussions with the Russians amid their financial discussions with the Saudis. But the original congressional scrutiny and approval of the original Hawk system to fit Jordan's proclaimed desire for a self-defense system, is in no way responsible for the present impasse.

ARMS CONTROL

Mr. CLARK. Mr. President, last week, in separate signing ceremonies in Moscow and Washington, the United States and the Soviet Union reached agreement on a treaty governing peaceful nuclear explosions. This proposed treaty comes as a companion piece to the Threshold Test Ban Treaty—TTBT—signed in 1974, which limited military nuclear tests to 150 kilotons. The President, at the signing ceremonies in the East Room of the White House, hailed the agreement as a "historic milestone in the history of arms control agreements."

Mr. President, I am strongly in support of arms control with the Soviet Union. And I do not want to prejudge these treaties, but I must note that the handling of the previous major agreements with the Soviets suggests caution at the minimum in assessing this latest accord as historic. Unfortunately, experience shows that earlier accords billed as monumentally significant were at least in part oversold as part of a public relations effort.

In this connection I find it particularly interesting that several prestigious groups of arms control experts take serious exception to these agreements.

In particular, the Arms Control Association, whose members include experienced arms control hands such as former Arms Control and Disarmament Agency Director William Foster, a former ACDA Deputy Director Adrian S. Fisher, Herbert Scoville, former deputy director for science and technology for the Central Intelligence Agency, and Gerald C. Smith, who was not only a director of ACDA but headed this Nation's delegation during much of the SALT talks as well, is unequivocal. The Association believes, it announced, "that the two treaties represent a disheartening step backward from responsible arms control policies." The Association went on to spell out five specific objections to the proposed treaties, including the level of the threshold and the nature of the onside inspection provisions.

Earlier the American Federation of Scientists, for which the respected Jeremy Stone serves as director, said simply that "the proposed Threshold Test Ban Treaty is worse than nothing." And finally the Task Force for the Nuclear Test Ban, whose members have labored long in the arms control field, has issued a statement opposing the treaty including the PNE provision.

To me, the arguments for a comprehensive test ban are compelling and I question whether we should toy with halfway measures, such as these two treaties, which could frustrate attempts to achieve a CTB. The executive branch professes to favor a comprehensive test ban "adequately verified." The Senate Foreign Relations Committee in 1973 supported, by a vote of 14 to 1, a resolution calling for a comprehensive test ban.

The possible military advantages in continued testing are insignificant in contrast to the national security benefit to us and to other nations of a halt to nuclear testing. With nuclear proliferation looming as perhaps the greatest danger facing the world today, we may be only playing with the problem as we give serious attention to a proposed treaty which only restricts us and the Russians to weapons tests 10 times the size of the bomb which destroyed Hiroshima.

Mr. President, such considerable criticism from persons and groups so deeply committed to the arms control problem does at a minimum raise questions about the justification for the praise heaped so liberally on these two treaties. I am fully aware, of course, that it may be argued that these are the best terms that can be achieved. Ultimately, this may be the conclusion of the Senate as well when it faces the problem of consenting to the ratification. But in the meantime, I urge a measured and careful analysis of these treaties, and look forward to serious and probing hearings.

As a backdrop to this debate, I ask unanimous consent to have printed in the RECORD the statement by the Arms Control Association on May 28, 1976.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE ARMS CONTROL ASSOCIATION,
Washington, D.C., May 28, 1976.

THE THRESHOLD TEST BAN AND "PEACEFUL" NUCLEAR EXPLOSIONS: STEPPING BACK FROM RESPONSIBILITY

The Arms Control Association today reaffirmed its opposition to the "threshold" test ban treaty signed in Moscow in July 1974 by former President Nixon and Soviet General Secretary Brezhnev, and to the companion treaty governing the conduct of nuclear explosions for peaceful purposes, which President Ford and Secretary Brezhnev have just signed in separate ceremonies.

The Association believes that the two treaties represent a disheartening step backward from responsible arms control policies. By permitting continued nuclear weapons tests of very sizable magnitudes and by establishing arrangements for conducting nuclear explosions for peaceful purposes, the agreements are likely to delay indefinitely the achievement of a long-sought treaty banning *all* nuclear tests, and to provide new respectability for the arguments of states which seek to develop nuclear weapon capabilities by professing an interest in peaceful explosions alone. By so doing, the proposed treaty sets back still further the prospects for preventing the spread of nuclear weapons to other countries, and for countering the grave threat to world peace and security such proliferation poses.

The Association continues to believe, as it did in 1974, that the President should not submit the treaties to the Senate for its consent to ratification. Instead, the President should reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and should instruct the United States delegation to the Conference of the Committee on Disarmament to undertake serious negotiations in that multilateral forum toward a treaty banning all nuclear weapons tests, in fulfillment of the commitment made by the United States government, along with all other parties, in the 1963 Limited Test Ban Treaty and the 1968 Non-Proliferation Treaty.

Five aspects of the proposed treaties are of particular concern:

1. The Threshold: A limit of 150 kilotons has no relationship to verification capabilities, which now permit the reliable detection and identification of nuclear explosions underground at much lower yields, in most cases at such low yields that any tests which went undiscovered would be of small military utility. The 150 kiloton limit does, however, permit continued testing of nuclear weapons of considerable magnitude—more than ten times the size of the weapon that devastated Hiroshima.

2. Peaceful Explosions Given New Respectability: Furthermore, it is clear that peaceful nuclear explosions (PNEs), which are indistinguishable from nuclear weapons tests, can be used by other countries as an excuse to justify nuclear weapons development. There was widespread skepticism when India announced that its May, 1974 nuclear explosion was entirely for peaceful purposes. Brazil, Argentina, and others have all expressed an interest in PNEs. By completing a treaty allowing such explosions, the United States and Soviet Union give new and unwarranted respectability to India and other nations which undoubtedly will use the new treaty to argue that their conduct of PNE programs has been vindicated.

3. A Freeze On Further Test Limitations: The proposed treaties, if adopted, are likely to freeze the level of permissible nuclear tests at 150 kilotons for years to come. There is no provision for systematically lowering the threshold or number of tests to zero; furthermore, U.S. acquiescence in tieing peaceful explosions to the threshold test ban has made an eventual comprehensive test ban treaty hostage to the continued Soviet interest in PNEs.

The United States has quite properly, but belatedly, all but abandoned efforts to develop nuclear explosives for peaceful purposes. Years of experimentation and millions of dollars in research into ways of using nuclear explosives for excavation, underground engineering, and electric power generation have all led to the conclusion that PNEs cannot compete with conventional means of accomplishing the same objectives, when all economic, environmental, and political considerations are taken into account.

The value of PNEs may be seen in a different light elsewhere, but in no case should the prospect that PNEs might prove useful some day be used today as an excuse for preventing a total ban on all nuclear tests.

(It should be noted that the preamble to the Threshold Treaty at least reaffirms the principles of the 1963 Limited Test Ban Treaty which bars the presence of radioactive material outside the national boundaries of states conducting underground nuclear explosions. This provision almost certainly will prevent the Soviet Union from carrying out announced plans to excavate a large canal using nuclear explosives.)

4. "On-Site Inspection" Provision Is No Breakthrough: References to the inspection provisions of the PNE treaty as a "breakthrough" are misleading. The complex and

highly specialized procedure for inviting designated observers to a predetermined location to witness a preplanned explosion bears little relationship to the on-site inspections sought in the late 1950s and 1960s in connection with test ban negotiations. The principle that U.S. negotiators then sought to establish involved the dispatch of U.S. or Soviet inspection teams, upon acquisition of suspicious information suggestive of nuclear testing, to any location, anywhere in the USSR or United States, at any time. In any event, care should be taken in future arms control negotiations that on-site inspections not be made a condition where they are not necessary.

Furthermore, the science of nuclear test identification has now reached the point where almost all seismic events which can be detected can also be identified, either as earthquakes or explosions, by national technical means, so there would hardly ever be any occasion to call for such an on-site inspection.

Finally, research on on-site inspection technology has shown that such inspections are easily made unreliable by a determined evader. Thus on-site inspection, as it was conceived years ago, would no longer contribute in any way to the verification of a comprehensive test ban. Such specialized verification techniques as have been devised for the PNE agreement might have some relevance to some equally specialized verification problems, but essentially none in the case of a nuclear test ban.

5. Commitment To The Non-Proliferation Treaty: The United States and Soviet Union have been criticized widely in recent years for the non-implementation of their obligations under the Non-Proliferation Treaty, not only to end all nuclear testing, but also to bring about more rapid and meaningful progress at SALT and provide security assurances to parties to the Treaty which have been asked to forego nuclear weapons. The two superpowers have responded by saying, in effect, that how they handle their arms race is nobody's business but their own. But that is not true. The ending of all nuclear weapons tests is an essential goal of *all* nations; any test ban treaty requires the participation of as many nations as possible. Bilateral actions by the two superpowers affect the world's future security and well-being, and cosmetic "arms control" agreements drawn up solely for their mutual convenience, to keep all possible options open, are not good enough.

The Arms Control Association therefore calls on the President to reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and to instruct the United States delegation in Geneva to negotiate with all parties in the Conference of the Committee on Disarmament a comprehensive ban ending all nuclear weapons tests for all time.

The Arms Control Association is a non-partisan national membership organization dedicated to promoting public understanding of effective policies and programs in arms control and disarmament. The Board of Directors are William C. Foster, Chairman; Archibald S. Alexander, Anne H. Cahn, Barry E. Carter, Joseph S. Clark, William T. Coleman, Jr., William H. Dodds, Adrian S. Fisher, Thomas L. Hughes, James F. Leonard, F. A. Long, Saul H. Mendlovitz, David A. Morse, Robert R. Mullen, Herbert Scoville, Jr., Gerard C. Smith, Barbara Stuhler, Lawrence D. Weiler, and Herbert York. Thomas A. Halsted is the Executive Director.

This statement has been approved by the Board of Directors of the Arms Control Association with the exception of Secretary of Transportation William T. Coleman, Jr. We felt it inappropriate to ask him to take a position on this matter.

A GRADUATION ADDRESS AT WEST POINT

Mr. GOLDWATER. Mr. President, in this Bicentennial Year, I think it is altogether fitting that we pause and reflect on those ideals and institutions which have contributed so much to this Nation's heritage.

In my view, the U.S. Military Academy at West Point has long embodied those ideals of duty, honor, and country which have made this country great. Mel. of West Point have answered their nation's call in war and in peace. They need no eulogy from you or me. They have written their own eulogies through lives of patriotic example to all of us.

Feeling as I do about West Point and its importance to the Nation's past, present, and future, I was delighted to read the Secretary of the Army's graduation address, presented at the West Point graduation ceremony on Wednesday, June 2.

Secretary Hoffmann delivered an eloquent and stirring speech which welcomed the Bicentennial class of 1976 to their leadership roles in the Army. He emphasized the significance of the occasion in these words:

This yearly renewal of the Army by the graduates of this cornerstone institution is not only symbolic, but real; it is substantive, and it is practical. We count on the infusion of youth, enthusiasm, high standards, imagination, and humor which you embody.

Secretary Hoffman reminded the class of 1976 that while their commissions and diplomas were imminent, their education is far from over. He spoke of the challenges of leadership in "a world of complexity, contradiction, and uncertainty—a world from which the Army is not insulated."

Secretary Hoffmann described the world situation briefly, but brilliantly, and challenged the class of 1976 to bring to the Army—

Their highest expectations, and retain them intact, bringing with them strength and patience to blend them to the (Army's) standards * * * in thus elevating our common vision for the Army, we can together assure fulfillment to the Nation of a historic, honorable, and most sacred trust.

Mr. President, Secretary Hoffmann's speech captures the essence of West Point's importance to the Nation. I commend it to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE MARTIN R. HOFFMANN

On behalf of the U.S. Army I am both gratified and privileged to welcome you, the members of this Bicentennial Class of 1976, to your leadership roles in our proud institution. It is a joyous day for you and I congratulate you heartily on your completion of the basic qualifications for one of the nation's most honorable professions—if it is not in fact and by definition the most honorable.

The basic truth was aptly captured by Justice Oliver Wendell Holmes, a distinguished Supreme Court Justice, author, lawyer and always the soldier, as he had once served:

"Who is there who would not like to be thought a gentleman? Yet what has that name been built on but the soldier's choice of honor rather than life? To be a soldier or descended from soldiers, in time of peace to be ready to give one's life rather than to suffer disgrace, that is what the word has meant."

This is a significant day for the Army as well. This yearly renewal of the Army by the graduates of this cornerstone institution is not only symbolic, but real; it is substantive, and it is practical. We count on the infusion of youth, enthusiasm, high standards, imagination, and humor which you embody.

You have a right to feel exhilarated by today's events. For to lead the nation's youth, to command its soldiers, and to deserve the respect it takes to do so is at once among your greatest challenges and the highest honors the nation can bestow. They epitomize the sacred trust the defense establishment holds in providing for the security of the nation.

Your diplomas and your commissions are close at hand. Your education of course is far from over. As you face the challenges of adventure, duty, danger, and leadership, the examinations will continue. Some will test all your faculties; all will test your values and your perception.

The choices that present themselves will seldom seem clearcut; answers will not come easily. You are leaving an institution marked by rules and regulations, by a certain sternness and simplicity; by dedication to traditional values. You are about to enter a world of complexity, contradiction, and uncertainty—a world from which the Army is not insulated.

Your problem will be not only to meet set goals, but to know what goals to set. Your problem will not be to deal with accepted reality, but to find realities amid a sea of conflicting appearances.

Some of today's apparent complexity, contradiction, and uncertainty springs from our role as a nation in the outside world. The role of the Army and thus your role as leaders in it are tied closely to national goals. The United States seeks peace, stability, freedom, and a world respectful of the rule of law. But it does so under conditions that are at once dangerous yet deceptively disarming in appearance.

A rival superpower, the Soviet Union, holds alien values; imposes a repressive political system on its own and neighboring peoples; it exploits international disorder; it openly advocates a competitive relationship based on military strength; and its challenges burst out in strange and distant places. But we must strive to reach reasonable accords with it in areas of mutual interest where we can agree.

We are repeatedly told that we have entered the nuclear age and cannot turn back from it: we are locked in a nuclear stalemate; yet as the nuclear threshold is raised, traditional forces, conventional weapons, and political geography have resumed their old importance.

We marvel at the intercontinental reach of our strategic forces. Yet most of our military objectives we must be prepared finally to reach on foot.

The nation is at peace; yet resources and the armed forces must be raised and maintained against the contingency of war.

We are prone to think of our present situation as unprecedented. But, to a degree, the perception of complexity, contradiction and uncertainty may come from our reverence for our history, and—in this Bicentennial Year—a yearning for overly quick lessons from it.

For we tend to reflect on our beginnings; and indeed much of our past, as simpler times, when choices and objectives were clearer than in the present. The concentrat-

ing perspective of hindsight: the ability to review past situations and decisions in the light of events and consequences that followed: and the shrouding of attending uncertainty by the obscuring mists of time—all of these tend to argue that earlier times were less complex, that there was a greater strength to be found in basic values then than now: and that principle was more easy to discern and less costly to follow in our glorious past than in the uneasy present and uncertain future.

Our fellow-citizens have suffered much during the past decade. Despite an unprecedented generosity of motives and intentions toward the outside world, they have not been much rewarded for their efforts.

They have found themselves the targets of lectures, abuse, and a litany of alleged faults and failures. The corrosive events of recent years have provided some warrant for skepticism, for lapse of confidence in our system of government and even for a questioning of the basic strengths of our society. It is understandable if many among our society should wonder how we should proceed from here.

Those potential adversaries from abroad who might be tempted to test this nation should not mistake as weakness or lack of underlying principle or purpose the appearances generated by the process through which the American nation seeks to root out error, to find direction or mold its system closer to the worthy ideals for which it has stood these 200 years. We ourselves should not mistake them.

For I sense the country questions, not to forego or destroy though sometimes that is the appearance. The country probes for value and example; it seeks wellsprings of principle and inspiration.

It is remarkable how often in the past, when faced with comparable trials and doubts, the nation has found in the Army those ideals, inspiration, and leadership it seeks. It is equally remarkable how often it has found them—not only in such commanding figures as Washington, Marshall, and Eisenhower, but also in the dedication and integrity of many thousands of soldiers—citizen and professional—who have compiled an enviable record of the nation's trust upheld.

This trust is neither surprising nor suspect. It has survived well because the Army has been an essence, or distillation of the people, as a symbol of the nation at its best:

Despite the desperate winter of 1777, the Army held itself intact at Valley Forge. Despite the tragedy of Civil War, the Army (North and South) fought with bravery, dedication and sacrifice that transcended the deep divisions in the nation and its people.

Despite the controversies and recriminations of the past decade, the Army held to ground and did its duty in Vietnam.

Whatever the surrounding circumstances, this old institution has faithfully performed its mission, preserved and consistently elevated its own and the nation's honor, and held to its ideals steadfast despite repeated trials.

In this the history of the Army, no one can mistake that the exactions of earlier times were less than in our own. The President made this clear at Arlington Cemetery on Monday of this week in referring to those who bore the brunt of the nation's battles:

"Their courage won a revolution. Their bravery preserved our Republic. Their perseverance kept the peace and ensured us a heritage of freedom . . . It is through their sacrifice that we, the living, have inherited a sacred burden—a trust—to honor the past by working for the future."

What does that future—that trust—direct for the military profession, for the Army?

The nation may be at peace, and yet we of the Defense establishment must gird ourselves in readiness for the contingency of war, in order to deter war.

Despite the seeming complexity, contradiction and confusion of the times, our task and objectives are clear, and uncompromising.

Ostensible peace—as better it might be called—is a complex and precarious condition—a state of affairs in which peace depends on deterrence, and deterrence depends on the stoutness and readiness of our defenses. We are trusted by the nation to be the judges of the adequacy of our handwork. Whatever else appearances may suggest, deterrence cannot be achieved through facades and false fronts, through hollow organizations and hollow men.

We must have a capability that bristles in the face of threat.

Deterrence in this day and age requires much more of the Army than business as usual. We may not be in combat, but we are engaged in a strange, dynamic, shadow-boxing contest—and the Army mans its front lines. Our campaigns may be in the training areas, in field exercises, or in the vigilant exercise of forward deployments. But they have all the import of battles fought of old—and the Army is central to their outcome.

Guns may be silent, but day-in, day-out, the Army must be ready, on call. Wherever its far-flung units are found, the Army must be prepared to deploy. It must be ready to fight, with little or no warning, to fight outnumbered and to win the first battle.

The whole objective of our mission is the achievement of effectiveness of many elements, and that effectiveness rides squarely on the mutual trust between those elements and between the individuals who man them—trust in the face of adversity; trust in the face of danger; trust in the face of disaster and even death; trust that holds consant until victory is won. Trust; honor; duty; integrity—they are not mere rhetoric nor abstract symbols. They are the very practical, functional stuff from which military capability is forged. Without the readiness, discipline, and tautness which come from continued exercise of principle, our posture and our deterrence will be seen for what it is, a hollow shell, a trust to the nation betrayed.

The United States has not been too proud to sacrifice, and to fight in the past. Now, as in the past, its safety depends on the readiness of individual soldiers and their leaders, and the measure and depth in which they embody that basic trust implied by those three words, duty—honor—country. The challenge, but even more the opportunity we have, is enhanced by the impact on the nation that can be generated by the example the Army will set in meeting the rigors imposed by the mission of peacetime deterrence. The restlessness, the skepticism, the faltering confidence of the society are not all mere superficialties. There has been an erosion of trust—in our institutions, in our ability to hold to basic values, and even in our sense of purpose as a nation. The Army can uniquely provide—and must provide—an example of discipline, honor and trust to which the public can repair. It is an example that will be welcomed, and it will be widely understood. What the Army can be to the nation is in no small measure based on the steadfast example and teaching of West Point.

Recent observers have questioned the modern relevance of the foundations of this institution. We have no need to come before you and defend a code of honor—it is timeless. When placed in its setting of what this institution is at its soul and heart—duty, honor, country—the long gray line, the mighty example of the history of West Point graduates and the story of the Army itself bear witness to its timelessness beyond our capability to so attest in twenty minutes here. I dare say the present public debate, in its criticism and often biting commentary is born of the sincere hope that these principles will endure in a troubled time.

Those who founded the Military Academy 174 years ago were not striving to create some small and separate elite. They were seeking to institutionalize the conscience of the Army—an Army whose principles of dedication and leadership had already been tested and refined in the crucible of the nation's first bitter war. The founders sought an enduring source of professionalism, of lasting standards, of elevating principle. Those needs are no less now than they were in 1802. This institution, however small, must continue in these troubled times to keep the flame of conscience alive. If West Point does not do it, where else will it be done?

It would be out of place to explore with you here the merits of the Honor System as it is presently constituted, that system of rules and procedures by which the principles of the Code are adapted to daily conduct. Its process is in mid-passage and is one of which I myself may ultimately be a part. It is essentially your system, men of the Corps. It finds its roots and its substance in the Corps. It is a system shared with others who constitute this institution. It is a living system that adapts to the need for change as wisdom, experience and judgment so dictate.

But as you leave the reinforcing routine of West Point and as the supporting immediacy of the Corps fades behind you do not overlook the practicality and the individuality of what you have done, and learned, and grown to be here. For despite appearances that may discourage, mock or even ridicule your aspirations, basic human nature remains the underlying reality.

Unwakened hopes, unkindled aspirations, and uncommon and unrealized abilities of soldiers and leaders alike will be within the reach of impact of all of you who on the friendly fields and in the rigorous exactions of West Point have explored and realized them in yourselves. The challenge is to hold to them, to renew them, to make them working realities.

The practical test of your accomplishments here will be to have the courage, the discipline, the wit and the faith to inspire in others and in the Army the basic ideals of duty, honor, country. Do not mistake it: those ideals to which you have aspired while here are the ideals by which the Army as an institution has been guided over the years. They are the ideals to which it continues to aspire today.

And so, members of the Bicentennial Class of '76, I ask that you bring to the Army your highest expectations, and retain them intact, bringing with them strength and patience to blend them to the standards you will find there. For in thus elevating our common vision for the Army, we can together assure fulfillment to the Nation of an historic, honorable, and most sacred trust.

Good luck. Godspeed.

PRESIDENT FORD CHOOSES DIRTY AIR

Mr. MUSKIE. Mr. President, on May 28, President Ford asked the Congress to reverse the course of national clean air policy set in place in 1967 and reinforced in 1970.

The President has proposed the elimination of the policy articulated in the 1967 Air Quality Act to protect air where it is presently clean.

The President has also proposed a delay in the automobile cleanup strategy which would expose 83 million people in this country to approximately 20 percent more smog and carbon monoxide in the 1980's.

The President would prefer uniformly dirty air across the country rather than the protection of public health and protection of the other values of our finite air resource.

His proposal abandons the resources of clean areas to the whims of polluters. The only limit on allowable degradation would be the primary—health-related—and the secondary—welfare-related—air quality standards. These standards are 6 to 10 times dirtier than the quality of the air in many clean areas. Since these standards were conceived as cleanup targets for dirty areas, they do not provide adequate protection for areas where the air is cleaner than such standards.

The President's proposal to degrade clean air areas could mean that visibility over national parks would be reduced to as little as 5 miles in areas that presently have visibility of 100 miles.

The President gave little weight to environmental protection in this decision. He claims that his proposal strikes the proper balance between our energy, environmental and economic needs absent in the Senate bill. This is a serious distortion, when one of the key factors—environment—is assigned no value in the calculation.

President Ford stands firmly for environmental degradation. By his own admission, the President did not seek the information available on nondegradation before attempting to reach his decision. His May 28 letter to congressional leaders states that he has asked the Environmental Protection Agency to supply him with the results of studies of nondegradation. Yet he announced his position on congressional nondegradation proposals in the same letter. He did not wait to examine those studies.

A similar inattention to current information is glaringly apparent in the President's position on auto emission standards. The President has demonstrated a concern for a select segment of the electorate—the automobile industry—that does not extend to the citizens whose health is at stake.

Two days prior to the issuance of the President's letter, the California Air Resources Board announced a significant advancement in automobile emission control technology. A new catalyst system has been certified by Government testing procedures and will be marketed by Volvo in California this year. The new system achieves extremely low emissions and results in a 10-percent fuel economy improvement at the same time. The President is obvious to this important development. In fact, his letter appears to indicate that such information would have no impact on him.

NONDEGRADATION

1. PROGRESS IN ENVIRONMENTAL PROTECTION

The President closes his letter by saying that while we are making progress in reaching environmental goals, we must not retard energy independence and economic recovery.

With regard to clean air areas, the Nation is not making progress. Air quality in clean air areas is declining. While only modest information is available from monitoring in such areas, we know from the increased number of sources in these areas; from the total emissions that come from these sources; and from the actual studies done of the power plants in the Southwest; that air quality in clean air areas is deteriorating.

While concentrations of particulate matter and sulfur oxides have declined in some urban areas over the last few years, total national emissions are on the increase; and urban sulfate levels have not declined. The Clean Air Act has resulted in cleanup progress in dirty air areas and has focused attention on the need to control pollution. Unless an unequivocal nondegradation policy is adopted, even that limited progress will be only temporary.

2. ONLY PRELIMINARY ANALYSIS IS AVAILABLE

President Ford is mistaken in his statement that present studies of nondegradation alternatives are not adequate. The May 26, CONGRESSIONAL RECORD, contains a fact sheet which identified 21 studies conducted on the EPA regulations prior to their final promulgation, and 23 studies which have been conducted on the various Senate committee proposals. Each Senator has received a copy of this factsheet.

In addition, EPA received 3,000 pages of testimony at its hearings on its proposed regulations. A may 28 letter from the Director of EPA Office of Legislation, Robert Ryan, stated that EPA had spent over $1 million analyzing the Senate and House nondegradation proposals.

3. NO MENTION OF POTENTIAL DAMAGE TO THE ENVIRONMENT

The President shows no concern about the potential adverse effects on national parks and wilderness areas, damage to water resources and vegetation by acid rain, harm to crops, and damage to other values protected by nondegradation provisions. This approach represents a philosophical viewpoint diametrically different from that on which environmental legislation has been predicated over the past 6 years. The declared national policy has been that, in the absence of complete information, steps should be taken to provide for protection. President Ford's approach implies that in the absence of conclusive information, environmental damage should be allowed to continue.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a letter from the White House and a study by the Sierra Club which identifies the adverse health and welfare effects associated with air quality levels below the ambient standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I continue with my point No. 4.

4. THE PRESIDENT APPEARS TO SUPPORT SENATOR WILLIAM SCOTT'S AMENDMENT

The only legislative proposal pending as an amendment in the Senate which would meet the criteria established in the President's letter is the amendment by Senator WILLIAM L. SCOTT of Virginia to strike the protect and enhance clause from the existing Clean Air Act. The Moss amendment does not go this far and does not meet the President's requirement that action be taken to preclude implementation of a significant deterioration policy until absolute and final knowledge is available.

The President has taken a position which supports the total elimination of protection provided by either the EPA regulations or congressional policy. The only fair interpretation of this position is that the President is opposed to protecting clean air.

5. JOB LOSSES

The President is attempting to use a phony "job scare" approach to defeat the Senate bill. His information is wrong. His approach discredits his position.

Pollution control has created 1 million jobs, according to recent reports by the President's own Council on Environmental Quality. Under the Senate bill, the installation of pollution control equipment will mean more jobs for those who manufacture pollution control equipment; for construction workers who install such equipment; and permanent employees who operate such equipment. Construction of new facilities will not be stopped by the Senate bill; new sources will, in some cases, need to add improved pollution control equipment and more carefully select locations for new plants. The increased costs are reasonable. One of the recent reports of EPA—which the President apparently chose not to read before making his decision—concludes this:

> The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities.

In an economy with 7.5 percent of the work force unemployed, pollution control work will aid the economy.

In addition, a study for the Federal Energy Administration by Inter-City Fund on nondegradation reached a similar conclusion. It said:

> The non-significant deterioration provision currently being considered by the House and Senate are unlikely to inhibit economic development, in that new plants can be built in rural areas.

AUTOMOBILES

The President has embraced Congressman DINGELL'S amendment to postpone required reductions in auto emissions until 1982. The President contends that 2 or 3 additional years of delay will affect neither air quality nor the health of the population significantly; that the delay will save billions of dollars; and that the delay will save billions of gallons of gasoline.

The President is mistaken. The Ford-Dingell delay would expose 83 million Americans in the most polluted urban areas to 20 percent greater auto pollution in the 1980's than under the Senate bill.

President Ford alleges that the committee bill would cost billions of dollars and billions of gallons of gas. In fact, the committee bill might cost an added $1 billion per year for 2 years but failure to make that investment could result in as much as $2½ to $10 billion in health benefits foregone.

And the committee bill could result in as much as 1½ to 2 billion gallons of fuel savings over cars which would be produced to the Ford-Dingell standards.

HEALTH EFFECTS

It is the cumulative effect of the many short delays which is relevant to the

health of the person exposed to the harmful pollution levels. The basis for President Ford to downplay health effects to unhealthy air is a comparison of the number of regions above the health-related air quality standards in 1990. That is an insufficient basis for comparison. Those regions contain 83 million people.

In 1980, the Dingell interim standard would add 11,000 "person-hours" of disability related to carbon monoxide, 1,000 aggravations of heart and lung disease in elderly persons, 20,000 excess cases of cough and 40,000 excess headaches due to oxidant.

Even in the areas where the air quality standards will be achieved by 1990, the belated attainment which the Ford-Dingell delay would cause will expose 42 million people to harmful air pollution levels.

THE NO_x STANDARD

Implicit in the Ford-Dingell delay is the argument that a 2 gram per mile NO_x standard may be adequate to protect public health, since tighter standards, if any, are left to administrative determination.

The 2 gram per mile NO_x standard is inadequate to protect public health. Between 1980 and 2000, the relaxed Dingell NO_x standard could add 2 million excess attacks of lower respiratory disease in children. According to the report from DOT/FEA/EPA to Mr. DINGELL, that the standard would cause 110,000 excess attacks of lower respiratory disease in children per year in 1990 and 2,000 excess days of restricted activity.

If the 1982 NO_x standard is tighter than 2.0 grams per mile than the DOT/FEA/EPA report indicates, then the technology required will be essentially the same for the 1.0 gram per mile NO_x required by the Senate committee bill and the cost and the fuel economy will be the same under either standard. However, if the 1982 and later standard is kept administratively at 2.0 grams per mile NO_x under the Dingell amendment, then one important step toward protecting public health will have been foregone and emissions of NO_x will be 4 million tons per year greater than under the Senate committee bill.

COST

It is claimed by President Ford that a delay would result in consumer cost savings of bills of dollars.

Reduced cost is an inadequate argument for relaxed standards. According to EPA, the technology to meet Senate committee statutory standards would add $2 or less to the sticker price compared to the Dingell 1982 standards. Even assuming a freeze at 2.0 NO_x, the EPA April 1976 report "Automobile Emission Control" gives a cost of $175 to $216 to meet the Dingell standards—41/3.4/2.0—and $175 to $218 to meet the S. 3219 standard—0.41/3.4/1.0—and these numbers do not reflect the learning curve which results in further cost reduction as technology is stabilized for a period of years. The added cost in either case compared to an average 1976 vehicle is moderate: $117 which is about the same cost as an option such as power steering, or a vinyl roof. The Ford-Dingell approach would not avoid that cost but merely delay it for 2 years.

It also must be recognized that the Ford-Dingell delay will result in added medical costs due to the higher level of emissions permitted. The National Academy of Sciences, in their report on air quality and automobile emissions control, found that the annual benefits for improving air quality from its present levels to the levels of the Federal ambient air standards for automobile pollutants may be in the range of $2½ to $10 billion.

The comparison of lifetime cost depends on relative fuel economy and the most realistic comparison can be made using the scenario described under fuel economy. As shown in the table below, the added lifetime cost due to S. 3219 with the industry adopting good technology would be about $1 billion for 1979, 1980, and 1981. This compares to an estimated total lifetime cost of $16,000 per vehicle or $160 billion for the new car fleet in each year. Thus the added cost under the committee bill will be about $100 over the 10-year lifetime of the car, or about $10 per year. Surely this is not an unreasonable price to pay for clean air and added fuel savings. Using Mr. DINGELL's assumptions, the following table has been prepared:

COMPARISON OF INCREMENTAL LIFETIME COST OF NEW CAR FLEET: S. 3219 WITH GOOD TECHNOLOGY RELATIVE TO DINGELL-FORD WITH POOR TECHNOLOGY

[In billions of 1975 dollars]

Model year	Increase in sticker price and maintenance	Savings in fuel cost	Total added cost of S. 3219
1979	0.95	0	0.95
1980	1.95	.86	1.09
1981	1.95	1.09	.86

However, the Ford-Dingell analysis contains inflated assumptions of the cost of maintenance of vehicles meeting the S. 3219 standards. The recent Volvo data suggests that neither a start catalyst nor a catalyst change will be required. The President assumes both items will be needed. This suggests that the added sticker price will be less than $70 and added maintenance—mostly due to sensor changes—$25 for a total of $95. However, lifetime savings in gasoline cost would be $86 in 1980 and $109 in 1981 so that cost savings due to fuel economy gains offset the modest added sticker cost under the committee standards.

FUEL ECONOMY

The President claims that the Ford-Dingell delay would result in fuel savings of billions of gallons.

Not only is this unlikely, but increased fuel economy is also a false argument for relaxed standards, since there is no guarantee that the hypothetical fuel economy gains identified will be achieved.

In fact, there is good reason to believe that the application of the tighter standards in the Senate bill in 1979, 1980, and 1981 will result in the saving of 3 billion gallons of gasoline compared to the Ford-Dingell standards.

As I have repeatedly pointed out, the actual fuel economy depends on the choice of technology, not on the choice of emission standards.

Actual fuel economy of a vehicle depends upon many factors unrelated to emissions, vehicle weight and engine size. The 1976 EPA report on automobile emission control identified two systems that could be considered to make the good fuel economy engine achieve hydocarbon levels low enough to have high confidence of certifying at statutory emission standards. And EPA has stated that—

There is no inherent relationship between exhaust emission standards and fuel economy.

The fuel economy standards established by the Energy Policy and Conservation Act of 1975 of 20 miles per gallon in 1980 and 27.5 miles per gallon in 1985 can be met concurrently with the emission standards established by the Senate committee bill, even assuming no shift in model mix and poor to average technology.

Since it is unlikely that the S. 3219 emission standards can be met on most cars without good technology, it is reasonable to assume that if S. 3219 prevails, good technology will be used, with benefits for fuel economy. Since the manufacturers have already faced the Ford-Dingell interim standards in California and most have used poor technology to meet them, it is also reasonable to assume that if Ford-Dingell prevails, poor technology will simply be extended to all States, with a similar and continued negative impact on fuel economy.

A current example of the benefits of good technology is the 1977 Volvo which has achieved emission levels of 0.20 HC, 2.8 CO, 0.17 NO_x in EPA certification tests for cars sold in California. These levels are considerably better than the final statutory standards set in the committee bill. And while meeting much tighter emission levels, this automobile has improved its fuel economy by 10 percent from 20 miles per gallon in 1976 to 22 miles per gallon in 1977.

The reason? The manufacturer introduced improved technology. Surely, given 2 more years of leadtime, the domestic manufacturers can do as well as Volvo.

Assuming that even under the Ford-Dingell delay, that the requirements of public health and the availability of technology would cause EPA to establish a nitrogen oxide standard of 1.0 grams/mile in 1982, there are only 3 years in which the Ford-Dingell and the S. 3219 standards would differ: 1979, 1980, and 1981.

Under the most likely scenario, in which the S. 3219 standards force the use of best technology, but the Ford-Dingell standards do not, close examination of the DOT/FEA/EPA report itself shows that it is the Senate bill which would result in savings of billions of gallons of gasoline.

The ranges of fuel economy from table IA of the DOT/FEA/EPA report are reproduced below along with the requirements of the Energy Policy and Conservation Act.

ESTIMATED FUEL ECONOMY OF NEW CAR FLEET IN MILES PER GALLON

Model year	Required by (EPCA)[1]	S. 3219	Dingell
1976		17.6	17.6
1977		18.4	18.4
1978	18.0	20.7–21.1	20.7–21.1
1979	19.0	19.8–21.8	21.8–22.2
1980	20.0	20.2–22.4	21.7–23.1
1981	[2] (21.5)	21.6–24.0	23.0–24.5
1982	[2] (23.0)	23.0–25.6	[3] 23.0–25.6
1983	[2] (24.5)	24.2–27.2	[3] 24.2–27.2
1984	[2] (26.0)	25.6–28.8	[3] 25.6–28.8
1985	27.5	26.6–29.7	[3] 26.6–29.7

[1] Energy Policy and Conservation Act (EPCA).
[2] Estimated.
[3] Assuming 1 NO_x promulgated by EPA.

LIFETIME NEW CAR FLEET FUEL CONSUMPTION

[In billions of gallons]

Model year	Dingell-Ford (poor technology)	S. 3219 (good technology)	Difference (savings due to Senate bill)
1979	45.87	45.87	0
1980	46.08	44.64	1.44
1981	43.48	41.67	1.81

EXISTING LEVEL OF CONTROL

The President leaves the impression that auto pollution has been reduced by 83 percent. That is incorrect. The latest tests of actual cars on the road show that emissions of carbon monoxide from 1975 model cars are 65 percent above the standards even at low mileage. When projected to the 50,000 miles required to meet certification standards, carbon monoxide emissions will reach 160 percent above the standard and hydrocarbons 47 percent above the standard. Thus, any claim that auto pollution has been reduced 83 percent is idealized and misleading because it does not correspond to actual performance of cars in use.

Russell Train stated the following in the Senate hearings last year—page 1340:

Currently, 1975 Federal standards will require an 83% hydrocarbon, 83% carbon monoxide, and 11% nitrogen oxide reduction from precontrolled cars.

Compared to the 1970–71 models upon which the statutory 90% reduction required by Congress is measured, and which had higher nitrogen oxide emissions than did precontrolled cars, the progress is 63, 56, and 38 percent respectively.

Thus, we have come a long way, but still have a considerable way to go to meet the statutory standards. Moreover, autos in use often fail to meet standards because of inadequate maintenance.

The last sentence is key: The record of cars in use is very poor. To imply that we have had adequate cleanup of auto emissions is erroneous.

EXHIBIT 1

THE WHITE HOUSE,
Washington, May 28, 1976.

HON. JENNINGS RANDOLPH,
Chairman, Public Works, Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

HEALTH AND WELFARE EFFECTS OF POLLUTANTS AT CONCENTRATIONS BELOW NATIONAL AIR QUALITY STANDARDS: A SUMMARY OF FINDINGS

ADDENDUM

This addendum describes the scientific evidence concerning the adverse effects associated with pollution levels below those permitted by the national ambient air quality standards.

HEALTH EFFECTS

Summarizing the results of the Conference on Health Effects of Air Pollution which was conducted under the auspices of the National Academy of Sciences—Engineering, the NAS reporters concluded: [1]

"Due to the limitations of present knowledge, it is impossible at this time to establish an ambient air concentration of any pollutant—other than zero—below which it is certain that no human beings will be adversely affected."

For example, a sulfur dioxide episode in Yokkaichi, Japan, in 1972 resulted in 817 reported illnesses from sulfur dioxide inhalation when the pollution level reached 0.1 part per million (ppm). Syrota, M., "Observations on the fight against air pollution in Japan," 15 Pollution Atmospherique 129–151 (1973). By comparison, the maximum 24 hour concentration, which is not to be exceeded more than once per year, under the present national standards is 0.14 ppm. During the same episode in Japan, absenteeism among school children due to respiratory ailments tripled when the average weekly sulfur dioxide level exceeded 0.09 ppm. *Ibid.*

A recent report in this country found: [2]

The implication of daily levels of SO_2 and particulates has been studied in particularly vulnerable groups such as patients with chronic bronchitis and emphysema. Deterioration in their respiratory well being has resulted from daily concentrations of SO_2 of about 500 micrograms per cubic meter which is not much above the 24-hour primary standard. A few studies have even suggested that deterioration in particularly vulnerable groups may occur with daily concentrations which are below this standard."

A classic example of the adverse effects on health from sulfur oxide concentrations below the ambient standards has recently been documented by EPA itself. Ever since the national sulfur dioxide standards were promulgated, increasing attention has been given to derivative forms of sulfur dioxides, namely sulfates. Sulfates are produced through complex interactions of sulfur oxides with other chemical substances in the air and with ambient moisture. In recent years, sulfates have become increasingly regarded as being more dangerous to human health and more likely to be responsible for observed human health effects than sulfur dioxide itself.[4] The data tentatively suggest: (1) adverse health effects could be ascribed to quite low values of suspended sulfates,[5] and (2) such values exist pervasively in the ambient air throughout the eastern United States.[6]

On September 23, 1975, EPA issued a report which, while emphasizing the need for additional studies, stated that its "best judgment estimates" tied adverse effects to sulfate concentrations at or below that found in a 24-state region of the northeastern United States, including rural areas. EPA, Position Paper on Regulation of Atmospheric Sulfates, p. x (1975). Furthermore, these sulfate concentrations were correlated to sulfur dioxide levels at or near the primary annual standards and at or below the primary 24 hour standard. For example, urban levels now being monitored in the northeastern

Footnotes at end of article.

United States measured a range of sulfate concentrations of 10 to 24 micrograms per cubic meter (ug/m³); nonurban concentrations ranged from 8 to 14 ug/m³ (annual average). *Id.* at x, 20. "Best judgment estimates" on levels associated with adverse health effects were as low as 10 to 15 ug/m³ (annual average). *Id.* at viii, 10.

Despite this information, EPA has concluded that (*id.* at 78):

"[S]ulfate information presently available does not now permit the establishment of a new regulatory program."

Moreover (*id.* at xiv):

. . . development of the data and information necessary for a sulfate regulatory program would require 3 to 5 years. In this regard, if EPA were to set a National Ambient Air Quality Standard (NAAQS) for sulfates, it could not realistically be proposed before 1980 or 1981."

Sulfur dioxide emissions from relatively clean air in rural areas is a chief contributor to dangerously high urban sulfate concentrations. EPA states (*id.* at 35): [7]

"The hypothesis that long range transport of sulfates from power plants is influencing urban sulfate levels is supported by the limited data on emission and concentration trends * * *. [T]he NAS [National Academy of Sciences] presents estimates of the impact of large emission sources on downwind sulfate concentrations. Their analysis suggests appreciable impacts on sulfate levels at distances of 300 miles downwind * * *."

EPA further states (*id.* at 41):

[O]nce applicable emission limits have been met by all sources in urban areas thus reducing locally produced sulfates, EPA believes that, based on the available evidence concerning transport, further increases in regional and urban sulfates can be expected if nonurban SO_2 emissions from power plants and other sources continue to rise. Given the general levels of sulfates, other fine particles, and sulfur oxides in the northeast, the Agency's assessment of the preliminary health data suggests that such increases should be viewed with concern."

EPA concludes that (*id.* at 60):

". . . protecting the most sensitive portion of the population could ultimately involve SO_2 control in excess of that required to meet current SO_2 standards."

Low level effects of other pollutants which are not covered by EPA's significant deterioration regulations, such as nitrogen oxides, also cause adverse effects.[8] For example, nitrogen dioxide concentrations of 0.1–0.3 ppm for short periods of time may cause visual and olfactory effects.[9] It is now believed that further control of nitrogen oxide emissions could inhibit the formation of sulfates in the atmosphere.[10]

Finally, there is recent evidence regarding the possible cancer causing effects of a nitrogen dioxide derivative. The World Health Organization estimates that eighty per cent of cancers are environmentally caused; the National Cancer Institute puts the figure at sixty to ninety per cent. The City of Baltimore, Maryland, has the highest cancer death rate of any city in the nation.[11] Until recently dimethyl nitrosamine (DMN), one of the most potent cancer-causing substances known to man, had never been found anywhere in ambient air over the United States, because techniques to detect it were too primitive. It was, nonetheless, theorized that DMN could be formed in the atmosphere by the reaction of nitrogen oxides with industrial or natural substances called amines. Baltimore was among five eastern cities recently tested for DMN. This time the startling evidence revealed DMN to be present over two of the cities. Baltimore was one; its air registered the higher level.

In sum, the evidence is mounting that adverse effects on health and welfare are associated with air pollution concentrations well below the present national standards. The National Academy of Sciences—Engineering recently reported to the Congress: [12]

"All of the panels on health effects addressed themselves to the question of whether there are thresholds for the adverse health effects of pollutants, that is, some safe levels below which essentially all members of the population are protected. The present standards were derived on the assumption that such thresholds do exist . . .

However, in no case is there evidence that the threshold levels have a clear physiological meaning, in the sense that there are genuine adverse health effects at and above some level of pollution, but no effects at all below that level. On the contrary, evidence indicates that the amount of health damage varies with the upward and downward variations in the concentration of the pollutant, and with no sharp lower limit." 44(a).

Moreover,[13]

"Some persons with respiratory or cardiac disease may have so little reserve that the slightest increase in pollution could aggravate their condition or precipitate death. 44(b).

"Thus, at any concentration, no matter how small, health effects may occur, the importance of which depends on the gravity of the effect." 44(c).

A report submitted to the Ford Foundation in September 1974 by the American Public Health Association, concluded that "at every level of pollution and not at some defined threshold, it appears that, depending upon the adaptive reserve of the individual, someone becomes ill and someone's life is shortened." [14]

VEGETATION

Adverse effects are also caused to vegetation by low levels of pollution. Complete disappearance of certain lichens has occurred when winter sulfur dioxide averages reached two-thirds of the annual standard. EPA, Effects of Sulfur Oxide in the Atmosphere on Vegetation: Revised Chapter 5 for Air Quality Criteria for Sulfur Oxides, p. 19 (1973). Acute injury to spruce trees has been observed when the four-month growth season average concentration for sulfur dioxide was two-thirds the annual standard. Id. at 36–37. Other studies indicate varying adverse effects of pollutants at levels below the national standards on wheat and potato yields, spinach and apple quality, white pine tree volume and many other crops. Ibid.

ACID RAIN

Another effect of low-level pollution, which is closely associated with observed ambient levels of suspended sulfates, is the phenomenon known as acid rain. EPA, Position Paper on Regulation of Atmospheric Sulfates, supra, p. 11. EPA has found that the acidification of rainfall can raise the acidity of soils and natural waters, cause mineral leaching, and damage vegetation. Ibid. The results can have a devastating effect on forests, soils, plant, animal, and aquatic life.[15] A recent study suggests that acid precipitation may be causing depletion of fish populations in lakes in the Adirondack Mountains of New York.[16] A Swedish study pointed to the increasing acidity of Swedish and Norwegian lakes and streams, some of which have become so acidified that they can no longer support fish life.[17]

Several groups have warned about the potential effect on vegetation which a rise in acidity may have. Sweden's researchers found that a very small increase in ambient concentrations of sulfur oxides led to a drop in the growth rate of its forests. Id. at 44. The resulting acidity was projected to result in a reduction of forest growth by as much as 10 to 15 per cent by the year 2000. Id at 9. Evaluating the environmental impact of power plant development in the Southwest, a federal study group found that "the effect of acid rain * * * may be expected to be significant" on vegetation as well as water quality. Southwest Energy Study, Report of the Air Pollution Work Sub-group, App. C–1, p. 29 (1972). An EPA panel found that a Christmas tree plantation suffered significant damage from emissions from a power plant, even though the maximum one-hour average of ambient sulfur oxides did not exceed .36 ppm during the study period, in contrast to the secondary 3-hour standard of .5 ppm.[18]

In its comments to EPA on the 1973 proposed regulations, the Forest Service expressed particular concern over reports of "substantial reduction in timber volume caused by chronic low levels of SO_2 or acid rains." The comments pointed out that, "although acute damage episodes are diminishing, we are now faced with a more serious problem—chronic exposure to low levels of various air pollutants." To avoid such damage, the Forest Service urged "a cautious approach to allowing any deterioration of air quality . . ." [19]

Rainfall ten times more acidic than normal has been reported over the eastern United Staes. In some remote rural areas of New England, the rains have been described to be "as acid as pure lemon juice." [20]

One especially difficult aspect of acid rain is that its quantity and concentration depend upon the total amount of pollution in the air over a wide region rather than the concentration in any particular place. Any increase in pollutants, even at very low levels and even in an area which enjoys air quality better than required by the standards, nevertheless will contribute to the overall atmospheric loading of pollution which can result in acid rainfall.

VISIBILITY

Any amount of air pollution, even at low levels, will have an impact on visibility. If sulfur oxides are present at a level well below the annual standard (60 micrograms as opposed to the standard of 80), visibility will be reduced to about 15 miles. EPA, Air Quality Criteria for Sulfur Oxides, p. 14. If humidity is fairly high, visibility will be reduced even more. For example, if humidity is at 98 percent, with sulfur dioxide at 60 micrograms, visibility decreases to 3 or 4 miles. Ibid. A visual range of five miles or less requires that aircraft operations be slowed and restrictions imposed. EPA, Air Quality Criteria for Particulate Matter, p. 52. By contrast, in large areas of the country and in particular in those areas prized for their natural and scenic treasures, present visibility may extend for 50 to 100 miles.[21]

The presence of particulates also reduces visibility sharply. At what EPA terms a "typical rural concentration" of 30 micrograms of particulates per cubic meter, visibility is about 25 miles. EPA, Air Quality Criteria for Particular Matter, p. 60. At the level of the secondary annual standard, 60 micrograms, the range is reduced about 12 miles. *Id.* at 57. If particulates are at the level of the primary standard, 75 micrograms, that concentration "might produce a visibility of 5 miles in some instances." *Id.* at 61. And if nitrogen oxides are present with particulates, visibility is reduced even further. EPA, Air Quality Criteria for Nitrogen Oxides, pp. 2–4, 2–6.

SYNERGISTIC EFFECTS

These specific examples demonstrate that many adverse effects are present at pollution levels below those set by the ambient standards. In addition, however, atmospheric pollutants seldom, if ever, occur in isolation. It is clearly established that pollutants combined together may have a greater total effect than the sum of their individual effects. This phenomenon, called synergism, can result in adverse effects produced by two or more pollutants acting in combination, even though each pollutant is present in quantities below its coresponding national

Footnotes at end of article.

standard. As the National Academy of Sciences-Engineering has stated, the implication is that (NAS Report, *supra*, p. 19):

"Air quality standards that regulate individual pollutants independently can never fully reflect ambient pollutant concentrations and their effects on human health."

Research has increasingly documented synergistic effects. For example, particulate matter in concentrations below the secondary 24-hour standard will produce, in conjunction with small amounts of sulfates, a decrease in the lung function of children both at rest and after exercise. NAS Report, supra, p. 76. The evidence of synergism between sulfur dioxide and particulates is well established.[23] EPA has concluded that the harm from sulfur dioxide is increased three to four times by the presence of particulates, which oxidize sulfur dioxide to acid aerosols. EPA, Air Quality Criteria for Sulfur Oxides, p. 111. A number of other studies have also demonstrated the synergistic effect of relatively low levels of sulfur oxides in combination with particulates.[23]

Synergistic adverse effects upon vegetation at concentrations that had no effects when searchers "found that a mixture of ozone and sulfur dioxide injured tobacco leaves at concentrations that had no effects when the two chemicals were present separately." Marx, Air Pollution: Effects on Plants, Science 731, 733 (February 28, 1975). Damage to plants has been found at sulfur dioxide levels of only .001 ppm, compared with the annual standard of .03 ppm, when combined with ozone.[24] A later study considered the combined effects of sulfur dioxide and nitrogen dioxide which "often occur together because they are both formed during the combustion of fossil fuels, especially coal."[25] The study found that "the synergistic effect was most 'marked at the lower concentrations used * * *'"[26] The concentrations ranged from .15 to .5 ppm compared with the secondary standard for sulfur dioxide of of .5 ppm.[27]

FOOTNOTES

[1] Summary of Proceedings—Conference on Health Effects of Air Pollution, Senate Public Works Committee, 93d Cong., 1st Sess. 1 (1973).

[2] Rall, "A Review of the Health Effects of Sulfur Oxides," National Academy of Sciences—Engineering, Air Quality and Automobile Emission Control, Vol. 2, Senate Public Works Committee, 93d Cong., 2d Sess. 418 (1974) (hereafter NAS Report).

[3] Footnote 3 omitted in copy.

[4] See, *e.g.*, Rall, "A Review of the Health Effects of Sulfur Oxides," 8 Environmental Health Perspective 97–121 (1974); EPA, Health Consequences of Sulfur Oxides 7–18 (1974).

[5] See, *e.g.*, Chapman, et al., Power Generation: Conservation, Health and Fuel Supply, Report to the Task Force on Conservation and Fuel Supply, FPC, 1973, National Power Survey 24–26.

[6] NAS Report, *supra*, Vol. 1, p. 60.

[7] See also *id.* at 38, 40; Klein, "St. Louis Study Indicates People Are Doing More About the Weather Than Talking About It," *The Wall Street Journal*, Aug. 19, 1975, p. 34 wherein it is reported "Pollution coming out of Chicago, St. Louis, Detroit and other Midwestern centers contribute to weather patterns all over the eastern U.S.," Russell, "Smog Trail Tracked to Fredericksburg," *The Washington Star*, Oct. 3, 1975, p. 1.

[8] Some of these have been noted in the Brief of Petitioners, Nos. 74–2063, 74–2079, pp. 18–20.

[9] NAS Report, *supra*, at 37.

[10] Oversight Hearings on the Clean Air Act Before the Subcomm. on Public Health and Environment of the House Comm. on Interstate and Foreign Commerce, 93d Cong. 1st Sess., Pt. 1, at 285 (1973).

[11] Challmes, Fairfield plant faces probe in cancer agent, The (Baltimore) Sun, September 20, 1975, at B1, col. 8; Auerback, EPA Probes Chemical Effects, Washington Post, September 20, 1975, at A3, col. 1.

[12] NAS Report, *supra* at 17, 58.

[13] *Id.* at 18.

[14] Carnow, Wadden, Scheff & Musselman, Health Effects of Fossil Fuel Combustion: A Quantitative Approach 2 (1974), *in* American Public Health Association, Health Effects of Energy Systems: A Quantitative Assessment (1974).

[15] Air Pollution Across National Boundaries, Sweden's Case Study for the United Nations Conference on the Human Environment 9, 56 (1971); Likens and Bormann, Acid Rain: A Serious Regional Environmental Problem, Science 11.76 (June 14, 1974); EPA, Summary Report on Suspended Sulfates and Sulfuric Acid Aerosals (197–); EPA, Comments on the Study Management Team's Draft Report, Southwest Energy Study 12 (1972).

[16] Schofield, Lake Acidification in the Adirondack Mountains of New York, presented at the 1st International Symposium on Acid Precipitation, and the Forest Ecosystem, Columbus, Ohio, 1975.

[17] Air Pollution Across National Boundaries, *supra*, p. 56.

[18] EPA, Recommendations and Summary of Mt. Storm, West Virginia—Gorman, Maryland and Luke, Maryland—Keyser, West Virginia, Interstate Air Pollution Abatement Conference, Washington, D.C., October 1971.

[19] Forest Service Comments on Environmental Protection Agency "Proposed Rules for the Prevention of Significant Air Quality Deterioration," October 19, 1973, Attachment to Record No. E–3.

[20] Likens & Bormann, *supra*; Council on Municipal Performance, "City Air," Municipal Performance Report 1:15, pp. 7–8 (1974).

[21] Southwest Energy Study, Report of the Air Pollution Work Sub-group, *supra*, p. 37.

[22] NAS Report, *supra*, p. 73; Hodgson, Short Term Effects of Air Pollution on Mortality in New York City, 4 Environmental Science and Technology 589, 590 (1970).

[23] See, *e.g.*, Novakov, Chang, and Harker, Sulfates as Pollution Particulates: Catalytic Formation on Carbon (Soot) Particles, Science 259 (October 18, 1974); Marx, Air Pollution: Effects on Plants, Science 731 (February 28, 1975).

[24] Applegate & Durrant, Synergistic Action of Ozone-Sulfur Dioxide on Peanuts, 3 Environmental Science and Technology, 759.

[25] Marx, *Air Pollution: Effects on Plants*, *supra*, p. 733.

[26] White, Hill and Bennett, "Synergistic Inhibition of Apparent Photosynthesis Rate of Alfalfa by Combinations of Sulfur Dioxide and Nitrogen Dioxide," 8 Environmental Science & Technology, 574, 575 (1974).

[27] See also Heck, Discussion of O. C. Taylor's Paper: Effects of Oxidant Air Pollutants, 10 Journal of Occupational Medicine 485–499 (1968).

THE OIL DIVESTITURE ISSUE IN PRESIDENTIAL CAMPAIGN

Mr. BARTLETT. Mr. President, my colleagues should find interesting a recent Tulsa World editorial on the oil divestiture issue in the Presidential campaign. "Oil: Scapegoat No. 1" describes how divestiture of the oil companies is being used by some candidates primarily to win votes.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OIL: SCAPEGOAT NO. 1

The oil industry has become accustomed to the role of everybody's scapegoat in the Democratic race for President. Hardly a candidate has missed the opportunity to promise to "break up" the oil monsters on that glorious day when he becomes President.

But the pitch against petroleum may have reached its low at Philadelphia this week when one candidate accused another of *ducking the issue* of whether to break up Big Oil.

The accuser was Morris Udall, who staged a "media event"—an outdoor press meeting—to charge that Jimmy Carter isn't really gigging the oil industry hard enough.

This could be passed off as just another campaign ploy, Udall is almost at the desperation point; strapped for money and unable to get his campaign off the ground. He is not doing well in the Pennsylvania campaign and Carter is generally regarded as running first.

Of course, Pennsylvaina is a big oil State, and you might think it would be a bad place to accuse a candidate of not wanting to break up an industry that furnishes jobs and taxes to the local economy.

But that's not the way Udall and the other oil-attackers look on it. One can almost picture them coming to Oklahoma or Texas with a promise to knock the oil industry in the head. That is seen as the way to get the "consumer" vote . . . the liberals, the workers, the poor and the motorist who resents the price of gasoline and heating oil.

It is sheer demogoguery, of course. It is pandering to a popular prejudice, using the age-old technique of taking pot-shots at an easy target.

The oil people scarcely know how to fight this tide of bias. They have made the logical arguments. They are waging a public relations campaign. They are trying to get across the obvious fact that if the domestic oil industry is driven into the ground, it will only increase our dependence on foreign sources—and bring on inevitable higher prices . . . *much* higher prices.

But who is listening? Not the candidates, who find it reassuring to have somebody to kick around. Scapegoat-ism is a basic part of finger-pointing, desk-pounding campaigns. The only way to stop it is for the people to think more clearly than the candidates.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. CLARK. Mr. President, unfortunately, I was unable to be here June 2, for the votes on the southern African funds included in the International Security Assistance and Arms Export Control Act of 1976–77 (S. 3439). Had I been here, I would have voted "yea" on the Humphrey amendment, rollcall vote No. 210; and "nay" on the Allen amendment, rollcall vote No. 209.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business? If not, morning business is closed.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The Senate will now resume the consideration of the pending business, H.R. 8532, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to

bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 1701, as amended.

Time for debate is limited. Who yields time?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Reserving the right to object, Mr. President, I am sure the assistant majority leader has a good reason for suggesting the absence of a quorum, and I think it might be a good idea to find out if we do have a quorum; so I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk continued to call the roll, and the following Senators answered to their names:

[Quorum No. 9 Leg.]

Allen	Helms	Roth
Byrd, Robert C.	Kennedy	Stone
Cranston	Mansfield	
Hart, Gary	Morgan	

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk continued the call of the roll.

Mr. ALLEN. Mr. President, I move that the Senate do now adjourn.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama. All those in favor say "aye."

(A chorus of "ayes.")

The ACTING PRESIDENT pro tempore. All those opposed, please say "no."

(A chorus of "noes.")

Mr. ROBERT C. BYRD. Division, Mr. President.

The ACTING PRESIDENT pro tempore. A division has been called for. Those Senators in favor will rise and stand until counted.

(After a pause.) Those opposed will rise and stand until counted.

On a division, the motion to adjourn was rejected.

The ACTING PRESIDENT pro tempore. The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Stafford Talmadge

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I further announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM R. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. GARY HART assumed the Chair at this point.)

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

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The result was announced—yeas 64, nays 0, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—64

Abourezk	Garn	Morgan
Allen	Glenn	Muskie
Bartlett	Gravel	Nelson
Bentsen	Hansen	Nunn
Biden	Hart, Gary	Packwood
Brock	Hartke	Pastore
Buckley	Haskell	Proxmire
Burdick	Hatfield	Randolph
Byrd, Harry F., Jr.	Hathaway	Ribicoff
	Helms	Roth
Byrd, Robert C.	Hollings	Schweiker
Cannon	Hruska	Scott, Hugh
Chiles	Huddleston	Sparkman
Clark	Jackson	Stafford
Cranston	Javits	Stennis
Curtis	Kennedy	Stone
Dole	Leahy	Taft
Domenici	Magnuson	Talmadge
Durkin	Mansfield	Thurmond
Eagleton	Mathias	Tower
Fannin	McGovern	Young
Ford	Metcalf	

NAYS—0

NOT VOTING—36

Baker	Hart, Philip A.	Pearson
Bayh	Humphrey	Pell
Beall	Inouye	Percy
Bellmon	Johnston	Scott, William L.
Brooke	Laxalt	
Bumpers	Long	Stevens
Case	McClellan	Stevenson
Church	McClure	Symington
Culver	McGee	Tunney
Eastland	McIntyre	Weicker
Fong	Mondale	Williams
Goldwater	Montoya	
Griffin	Moss	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum

is present and the clerk will state the pending business for the information of Senators.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

ORDER FOR RECESS UNTIL 11 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock a.m. on Monday.

The PRESIDING OFFICER (Mr. GARY HART). Is there objection? Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. DOMENICI. Mr. President, I ask unanimous consent that Vicente Severa of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that Ralph Colman have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that Amy Fondren may have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself such time as I may consume.

I am appreciative of the distinguished assistant majority leader's putting in the quorum call, because I think it is fine that an attempt be made to have a quorum of the Senate present when important business is being discussed. At the time the quorum call was put in, there were some 5 Senators on the floor, and I am pleased to note that at this time there are possibly 20 or 25 in or near the Chamber. I appreciate this, and I hope that the assistant majority leader will from time to time, as attendance drops off, put in other quorum calls.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. The Senator is entirely too kind to me. I tried to cut off the quorum call, and he would not let me.

Mr. ALLEN. Well, a quorum had not yet been established at that time, and therefore I objected.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. Mr. President, I have an amendment pending but I hope to offer either today or certainly by the middle of next week, when it becomes appropriate to do so, an amendment which I believe might well solve the more or less impasse that we have with regard to this legislation.

It is an amendment that is similar to the substitute which I put in last Thursday, and which the managers of the bill sought to table or drop, and were not successful in doing so until yesterday, when the distinguished majority leader was able to prevail on his motion to lay on the table.

That substitute, which drew considerable strength here in the Senate—38 votes, as a matter of fact—provided that we take the House-passed bill, the parens patriae provision without a title number—there was just one subject, so there was no title—take that bill and add to it the principle that the States should come under the provisions of the law if they saw fit to do so, but until such time as they did, the law would not be applicable in any particular State—that is, a local option feature.

That was a substitute for the entire Senate bill. It wiped out all five of the Senate titles. It saved the parens patriae title, title IV, but put it in the House language form.

That substitute wiping out all of the Senate bill except one section drew 38 votes here in the Senate. My present amendment, which is pending at the desk, would provide for taking the House bill and putting the local option feature on it, and offering that in lieu, not of the entire bill, but only of title IV. It would leave the other four titles intact, if the Senate in its wisdom agreed upon those titles.

As far as I am concerned, if this amendment could be adopted, I would have no objection. After consideration of three or four other amendments, and I think a time limit could be reached on those, I think we could dispose of this matter today, if my amendment could be adopted. It does not touch four of the Senate bill's titles; it merely takes the language of the House bill as to title IV.

This bill faces, we read in the press and in the Senate committee report, a possible veto. On page 231 of the minority views, report No. 94–803, part 2, there is a table showing the concerns expressed by President Ford with regard to this bill. The very first concern expressed there is:

Parens patriae concept, bypassing State legislatures, is questionable.

All my amendment would do would be to adopt the House language. That is not the amendment I am now going to offer, but the prospective amendment. It would take the House language on title IV and put in the local option concept, thereby not bypassing State legislatures.

The State ought to be able to determine what the power and authority, jurisdiction, and duties of its attorney general should be. Why should we confer authority on a State attorney general that the State has not signified that it desires to be placed on the attorney general?

That amendment, as far as the Senator from Alabama is concerned, would solve his major objection to the bill and we could go ahead and pass it. As I say, there are other Senators who want their amendments acted upon. I think we could agree on those.

AMENDMENT NO. 1702

At this time, however, I am going to adopt a somewhat different approach and call up amendment No. 1702, which I ask the clerk please to state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes amendment No. 1702 to amendment No. 1701:

At the end of title IV add the following new section:

SEC. 406. This title shall not be applicable in a State until that State shall provide by law for its applicability as to such State.

Mr. STONE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. STONE. Will the Senator be willing to include the Senator from Florida as a cosponsor on this amendment?

Mr. ALLEN. Yes. I am delighted to do that.

Mr. President, I ask unanimous consent that the distinguished Senator from Florida (Mr. STONE) be added as a cosponsor to amendment No. 1702.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, all this does is to provide this as to title IV. The other four titles of the bill would apply nationwide. But as to title IV, that is the power of the attorneys general to file these suits, that would not be applicable in a State until the State legislature passed a two-line bill, saying that the provisions of this bill shall be applicable in the State of Alabama, the State of Pennsylvania, the State of North Carolina, the State of West Virginia, or the State of Rhode Island, as the case might be.

So, already the distinguished managers of the bill have recognized that there is some merit in this concept.

I think one thing that made them recognize that there is some merit in the concept was the 38 votes cast in the Senate on a substitute that would wipe out the entire Senate bill and substitute the House language.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield on the Senator's time. My time is limited. I am sure he will not object to that.

Mr. PASTORE. The Senator from Alabama mentioned the name of the State of Rhode Island. I think that gives me the privilege of asking a question.

Mr. ALLEN. Yes.

Mr. PASTORE. As the bill now stands, as I understand it, the attorney general of a State has a right to bring a class action but he cannot be stopped by the legislature; is that correct?

Mr. ALLEN. He can bring it now.

Mr. PASTORE. In other words, he has the authority now under the so-called Morgan-Allen amendment. The attorney general has the authority to initiate a class action on price fixing, and the only prohibition or inhibition is the action by the State to stop him.

Mr. ALLEN. That is not quite right.

Mr. PASTORE. That is the amendment.

Mr. ALLEN. Under the present law the State attorney general can bring such an action if the State, as such, has been damaged by price fixing. Under the bill as it exists now, after the amendment that the distinguished Senator from North Carolina (Mr. MORGAN) brought up, it would not stop the attorney general but it would provide that the State could come out from under the provisions of this bill. Now my amendment, that has been called up, takes the reverse view of that and it makes the law inapplicable in a State unless the State signifies its willingness to come under it. It is made available to the State if they want it, but they do not have to do it.

Mr. PASTORE. But it would be a one-shot action.

Mr. ALLEN. No. It would be the law of the land until they came back under it.

Mr. PASTORE. In other words, what the Senator is actually suggesting is that there has to be approbation on the part of the State before this law could take effect?

Mr. ALLEN. That is exactly right. And why not?

Mr. PASTORE. Is the Senator asking me the question?

Mr. ALLEN. No. I am asking a rhetorical question. Exactly. And why not?

Mr. HRUSKA addressed the Chair.

Mr. PASTORE. I want to know what it is all about.

Mr. ALLEN. Yes, I know. I am not at any variance with the Senator. I am simply justifying the amendment.

Mr. HRUSKA. Mr. President, will the Senator yield for a brief observation?

Mr. ALLEN. I yield.

Mr. HRUSKA. Is it not true that in the Hawaii case the Supreme Court held that the State attorney general did not have authority to file a class action on behalf of citizens of his State?

Mr. ALLEN. That is correct, unless the State was involved.

Mr. HRUSKA. He could maintain the State's proprietary rights.

Mr. ALLEN. As a plaintiff.

Mr. HRUSKA. The bill before us would give the State attorney general that authority.

Mr. ALLEN. That is exactly right.

Mr. HRUSKA. As I understand the thrust of the pending amendment, the authority granted in the bill would not become effective in a State without affirmative action of the legislature of that State?

Mr. ALLEN. That is correct.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. PASTORE. Mr. President, may I ask a further question?

Mr. ALLEN. Yes.

Mr. PASTORE. It was my understanding that the thrust of this bill was in order to protect that small consumer who would be one of many in the price-fixing or gouging of a consumer and because his interest was so minimal it would never be expected that he would initiate a suit for the simple reason that he would be spending a lot more money than he would recover; therefore, in order to overcome that, we are giving power in a class action to the State, or the attorney general of the State, to bring that suit on behalf of the citizens of the State. Is that correct?

Mr. ALLEN. Yes, that is correct.

Mr. PASTORE. That was the thrust of this bill.

As I understand the amendment of the Senator, the Senator does not disapprove of that, but before it can happen he wants the State to give its consent.

Mr. ALLEN. That is exactly right, yes.

Mr. PASTORE. I would like to hear from the manager of the bill as to what is wrong with it.

Mr. ALLEN. Before we hear from the distinguished Senator from North Carolina, let me go further.

Yesterday the distinguished Senator from North Carolina called up an amendment by the Senator from Alabama, with the approval of the Senator from Alabama, which, as I stated at the time, was an amendment that I favor, but do not favor as much as the present amendment, and that would allow a State to come out from under the provisions of this law.

What I am suggesting at this time is that this amendment be adopted. While it is inconsistent with the other amendment, it would arm our conferees in the conference with three options in this matter. They could go the House route, which does not provide for a State coming out from under it or going under it. They are just under it under the law. It would provide the option of requiring the State to come out from under it or it would have the option of requiring the State to come under it. It would have those three options, and the conferees would be in full control of what was agreed upon, but it would make these options available to meet the objections of the President.

It might be necessary to go the route of requiring the State to come under it before it is applicable or it might be that they would take the amendment of Senator MORGAN, or it might be they could travel with the House language.

All this does is to give the conferees an added option in this area. So I think it is a good amendment. It is not the full amendment that I was talking about on taking the House bill. All it does at this time is to amend the Senate language on title IV to add this additional option that the conferees might use.

Mr. MORGAN. Mr. President, the effects of the amendment of the Senator would be that even though Congress passes this act, it would not become effective anywhere in the land unless and until the legislature of a given State took some affirmative action bringing that State within the act.

That, in itself, Mr. President, would delay the effective date of this legislation from 1, 2, 6, or 10 years, depending upon when the legislatures meet, and it would also, Mr. President, destroy the overall effectiveness of the bill. And here is why.

Antitrust litigation is very complex, and normally when one brings an antitrust action, he is bringing it against large companies that have large legal staffs.

There are only 77 attorneys in all of the 50 States attorneys general offices who are assigned solely to the antitrust division. Therefore, if the States are to be effective under this bill to assist in enforcing the laws, they are going to have to be able to combine their resources, and if it is going to take a period of 10 years before we have enough States in the bill for them to become effective, then I think we have destroyed the overall effectiveness of it.

In the tetracycline case, the action was brought; eventually all States joined in. The attorneys general of the various States pooled their resources. In the discovery part of the action they pooled their work. One State would do one part of the work and one another. Without it, it would have been impossible; because when I went to Minneapolis to appear in Judge Miles Lord's court, there were more than 50 attorneys representing five drug companies involved in that action. If I had had to be there with just one or two lawyers from my office, it would have been impossible for me to have met on equal footing or anywhere near equal footing with these people.

The amendment of the Senator from Alabama that we adopted yesterday clearly gives a right to any State to come out from under the provisions of this bill any time that the legislature sees fit to take it out. I think that the adoption of this amendment would have the effect of destroying the immediate effectiveness, if not the long-range effectiveness.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PASTORE. Will the Senator explain what the situation is now, without this law, or in the event that the President vetoes the bill and the veto is not overridden? What will be our situation then?

Mr. MORGAN. The law in that area is uncertain.

However, let me correct what I believe was a misunderstanding or a mistatement between the Senator from Alabama and the Senator from Nebraska. The Hawaii case did not hold that an attorney general cannot bring a parens patriae suit. In fact, it said affirmatively that he could bring a parens patriae suit for injunctive relief; but he could not recover for damages to the general economy of a State.

Mr. ALLEN. Mr. President, if the Senator will yield, that is exactly what the Senator from Alabama said.

Mr. MORGAN. Let me finish my statement.

Until that time, North Carolina's parens patriae case had been upheld. Once that case was decided by the Supreme Court, we had a receiver appointed by the State of North Carolina for and on behalf of the consumers of the State.

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. MORGAN. I yield.

Mr. PASTORE. Would the pending amendment vitiate what the Senator from North Carolina has just said?

Mr. MORGAN. I do not think it would vitiate it. However, the difficulty with what I think the law is is that it has not been decided finally by the Supreme Court and probably will be in litigation for years to come.

Mr. PASTORE. But the likelihood of vitiating it is there?

Mr. MORGAN. Yes.

Mr. PASTORE. Because of this amendment?

Mr. MORGAN. Yes.

Mr. ALLEN. Mr. President, if the Senator will yield, I do not see how the Senator can say that this amendment would have any effect whatsoever on these rights, because this is an additional right. It does not take any right away from anybody. Whatever the present law is, that shall stand. All this says is that these new powers—not the existing powers; it is not vitiating anything—shall not be conferred on the attorney general of a State, unless the State signifies its desire to have that happen.

I call to the attention of the Senator from Rhode Island the fact that this would not be in the final language of the bill, because it contains the other language that would be an option for our conferees to agree on what they thought was necessary to reach agreement with the House and to reach an understanding with the President on a possible veto.

The PRESIDING OFFICER. The Chair reminds Senators that when a Senator who holds the floor yields to another Senator for a statement, the time consumed by that statement comes out of the time of the Senator who makes the statement.

Who yields time?

Mr. ALLEN. Did the Chair say that the time came out of the time of the Senator who made the statement or the Senator who has the floor?

The PRESIDING OFFICER. The Senator who made the statement, if he does not ask a question. If he makes a statement, the time comes out of his time under the cloture limitation.

Mr. ALLEN. But only if it is in the form of a question does the time come out of the time of the Senator who has the floor. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ALLEN. If there is not a sufficient second, there will have to be a quorum call, and I hate to do that.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. ALLEN. We are entitled to the yeas and nays.

Mr. MORGAN. Mr. President, I shall make one final statement.

There is a provision in the bill now, as it was adopted yesterday, which will allow any State to come out from under the provisions of this bill. If the State of Alabama does not want to come under it, the legislature can take it out from under it. This extends to all others the right to come under it.

This measure has been endorsed by many associations, including the National Association of Attorneys General. Because there is adequate remedy for any State that does not want to come under it, I move that the amendment lie on the table.

Mr. HRUSKA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to table the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND) the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY) and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT) the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 42, nays 30, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—42

Abourezk	Hart, Philip A.	McIntyre
Allen	Hartke	Metcalf
Bentsen	Haskell	Morgan
Biden	Hatfield	Muskie
Case	Hathaway	Nelson
Clark	Huddleston	Packwood
Cranston	Jackson	Pastore
Culver	Javits	Pearson
Durkin	Kennedy	Pell
Eagleton	Leahy	Proxmire
Ford	Magnuson	Ribicoff
Glenn	Mansfield	Schweiker
Gravel	Mathias	Scott, Hugh
Hart, Gary	McGovern	Stafford

NAYS—30

Bartlett	Cannon	Goldwater
Brock	Chiles	Hansen
Buckley	Curtis	Helms
Burdick	Dole	Hollings
Byrd, Harry F., Jr.	Domenici	Hruska
Byrd, Robert C.	Fannin	Long
	Garn	Randolph
Roth	Stone	Tower
Sparkman	Taft	Young
Stennis	Talmadge	
Stevens	Thurmond	

NOT VOTING—28

Baker	Humphrey	Nunn
Bayh	Inouye	Percy
Beall	Johnston	Scott, William L.
Bellmon	Laxalt	Stevenson
Brooke	McClellan	Symington
Bumpers	McClure	Tunney
Church	McGee	Weicker
Eastland	Mondale	Williams
Fong	Montoya	
Griffin	Moss	

So the motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, in a moment I shall make a motion to reconsider the vote that tabled the amendment. I did change my vote in order to make this motion. But I do believe that there is a misunderstanding about just what the amendment does, and I would like to explain it as we have a few more Senators in the Chamber than we had when the motion was made and carried to table the amendment.

On Wednesday the distinguished Senator from North Carolina (Mr. MORGAN) called up an amendment that provided that title IV, the parens patriae section of the bill, would be applicable in a State until such time as a State came out from under its provisions. That amendment has been introduced by the Senator from Alabama. But he, the Senator from Alabama, also introduced an amendment that provides that title IV shall not be applicable in a State until that State comes under its provisions.

This amendment in nowise supplants the amendment of the Senator from North Carolina (Mr. MORGAN). By adopting the amendment, all it would do would be to arm the House and Senate conferees with three options instead of two options.

Representing the Senate would be the various Senators who have rejected this amendment. There would be no danger of this amendment being rammed through the conference to the exclusion of the other options. It would only be used in the event that it became necessary to meet the Presidential objections to the bill.

I am not speaking idly on the subject because I have here the minority views in the committee report, and on page 231 there is a table outlining the President's concern on this bill, concerns expressed by President Ford.

There are about six or seven of them, but the very first one says:

CONCERNS EXPRESSED BY PRESIDENT FORD

Parens patriae concept, bypassing State legislatures, is questionable.

If the conferees could work it out where they did not give the States any option at all to come out from under, or go under, just confer these rights on the Attorney General, they could do that. If they wanted option No. 2, which is Senator MORGAN'S amendment to require them to come out from under, if they saw fit, they could go that route. But if it became necessary, they could meet the President's objection to not bypass the State legislatures and require that they would have to come under the provisions of the law in order for it to be applicable in their particular State.

It does not supplant Senator MORGAN'S amendment. It just confers on the conferees a third option. They could take it or leave it.

I point out that the Senator from Alabama will not be on that conference. The various Senators opposing this concept would be the conferees. So there would be no danger of it being adopted if they did not want it, but it would arm them with a vehicle to make the bill acceptable.

I feel that with this option in there, if it became necessary to do that, then the conferees could go this route.

So it is not destructive of the present bill or the amendment of the Senator from North Carolina.

I cannot understand why the Senate, the managers of the bill and the supporters of the bill, would not be willing to arm themselves, not arm the opponents of the bill, but arm the proponents of the bill with a third option, and that is all this amendment does.

If we are going to have a monolithic vote on everything, there is no need of having amendments here, just discuss it from now on and finally pass it. But if we are trying to get a bill that would be acceptable in the House and the Senate, and to the President, I feel that this third option that is being granted would improve the bill and in nowise would it be destructive of the thrust of the bill.

I move, therefore, that the Senate reconsider the vote by which the amendment was laid on the table.

Mr. MORGAN. Mr. President, we discussed this issue Wednesday, we discussed it yesterday, and we discussed it today.

The vote was rather decisive, 42 to 30.

Therefore, I move to table the Senator's motion.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 48, nays 24, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—48

Abourezk	Hart, Gary	McIntyre
Bentsen	Hart, Philip A.	Metcalf
Biden	Hartke	Morgan
Brooke	Haskell	Muskie
Byrd, Robert C.	Hatfield	Nelson
Case	Hathaway	Packwood
Clark	Huddleston	Pastore
Cranston	Jackson	Pearson
Culver	Javits	Pell
Dole	Kennedy	Proxmire
Domenici	Leahy	Randolph
Durkin	Long	Ribicoff
Eagleton	Magnuson	Schweiker
Ford	Mansfield	Scott, Hugh
Glenn	Mathias	Stafford
Gravel	McGovern	Talmadge

NAYS—24

Allen	Curtis	Stennis
Bartlett	Fannin	Stevens
Brock	Garn	Stone
Buckley	Hansen	Taft
Burdick	Helms	Thurmond
Byrd, Harry F., Jr.	Hollings	Tower
	Hruska	Young
Cannon	Roth	
Chiles	Sparkman	

NOT VOTING—28

Baker	Humphrey	Nunn
Beall	Inouye	Percy
Bayh	Johnston	Scott, William L.
Bellmon	Laxalt	
Bumpers	McClellan	Stevenson
Church	McClure	Symington
Eastland	McGee	Tunney
Fong	Mondale	Weicker
Goldwater	Montoya	Williams
Griffin	Moss	

So the motion to lay on the table the motion to reconsider was agreed to.

AMENDMENT NO. 1777

Mr. JAVITS. Mr. President, I call up my amendment No. 1777 on behalf of myself, Senator HRUSKA, Senator MATHIAS——

The PRESIDING OFFICER. The Senate will be in order so that the Senator from New York can be heard.

The Senator may proceed.

Mr. JAVITS. I call up my amendment No. 1777 on behalf of myself and Senators HRUSKA, MATHIAS, DOMENICI, and DOLE, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and others, proposes an amendment numbered 1777.

Mr. JAVITS' amendment (No. 1777) is as follows:

Add the following title:

TITLE VI—ANTITRUST REVIEW AND REVISION COMMISSION

PURPOSE OF THE COMMISSION

SEC. 601. In pursuance of title I (Declaration of Policy), the Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revisions, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and service;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d)) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

SEC. 602. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) POLITICAL AFFILIATION.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) VACANCIES.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 603. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 604. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 605. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Com-

mission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 606. (a)(1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 607. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 608. Sixty days after the submission to Congress of the final report provided for in section 607, the Commission shall cease to exist.

Mr. JAVITS. Mr. President, I ask unanimous consent that Herb Jolovitz, of Senator LEAHY's staff, may have the privilege of the floor during the debate on this proposal.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Bill Pursley of my staff have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this amendment proposes to establish an Antitrust Review and Revision Commission on a high level, organized very much like the famous Hoover Commission, the Commission to be composed of four members from the executive branch, four from the Senate in the usual way, four from the House of Representatives, again in the usual way, and six from private life.

The purpose of the Commission will be, within 2 years, to report to Congress and to the President respecting such revisions as ought to be made in the antitrust laws, based upon its study, which study would include the following questions: the effect of the antitrust laws upon price levels, product quality, and service; employment, productivity, output, investment, and profits; the concentration of economic power and financial control; foreign trade and international competition; and, finally, economic growth.

Mr. President, the other elements are the usual routine of subpenas, right to hold hearings, and so forth; but this is the fundamental point.

Why this move at this time? The reason, Mr. President, is that obviously we are, in dealing with the antitrust laws, accepting the basic antitrust laws as they stand, and what we are doing is dealing with enforcement, with the methods by which inquiries and investigations shall be made, et cetera.

There are many of us in this body and in the country who are deeply concerned about whether the antitrust laws reflect the economic realities and economic necessities of our country today.

For example, the courts, as exemplified by a decision by Justice Blackmun only 2 months ago, very seriously criticized the present status of the antitrust laws. Justice Blackmun, as I say only 2 months ago, struggling with what he called the proper construction of an exemption from the Robinson-Patman Act, pointed out that both parties to the suit relied heavily, in completely opposite directions, on unclear legislative history; and judges have complained for years about the confusion which is inherent in the antitrust laws.

Mr. President, this amendment would establish an 18-member bipartisan Commission which would be charged with the duties of reviewing our antitrust laws and making recommendations for improving and modernizing them. The Commission would be composed of eight Members of Congress, four members of the executive branch, and six experts from the private sector, to be chosen in such a manner as to be broadly representative of the various interests, needs, and concerns which the antitrust laws may affect.

The Commission specifically would be asked to examine the effect of the antitrust laws upon:

Price levels, product quality and service;

Employment, productivity, output, investment, and profit;

Concentration of economic power and financial control;

Foreign trade and international competition; and economic growth.

The amendment provides a period of 2 years for this study, in order that fundamental and basic relationships between the antitrust laws and our increasingly complex economy can be thoroughly analyzed.

My cosponsors and I submit this time because we feel that it would be most appropriate now that we are developing in this bill new techniques and remedies for enforcing the existing laws to consider also the substance of those laws. Whatever shape employment techniques ultimately take, they will simply have been added to existing substantive legal concepts which have been in place, for the most part, for over 85 years. Now that some from of antitrust legislation will emerge from the Congress, this is a critical moment at which to begin a reassessment of the basic economic approach to our antitrust laws. In today's atmosphere of "regulatory reform," a hard look at our basic antitrust law may permit us to reform the most fundamental type of government regulation in our entire economy.

Among the reasons why I believe a review and revision of the antitrust statutes has become a economic necessity for our country are:

First, the market structure of our economy and even the nature of the economy itself have changed radically since the adoption of the Sherman Act in 1890; statutes designed to meet the needs of a 19th century economy cannot be expected to provide direction for economic policies of the 1970's.

Second, the vague language of the existing antitrust laws and the lack of clarity as to the purposes of those laws have left the courts, the bar, and the business community with little guidance for deciding cases, predicting results or making business decisions. The result has been uncertainty in the law which has paralyzed much initiative.

For instance Chief Justice White in 1911 in the Standard Oil of New Jersey case in establishing the Rule of Reason and overruling the Trans-Mission Freight Association cases of 1897 speaks about the "confusion" which is created by the question of deciding whether to apply the "Rule of Reason" or the "per se" test in an antitrust case based on a Sherman Act violation. And Justice

Brandeis in expanding on the "Rule of Reason" in the Chicago Board of Trade case expressed his misgivings about applying "simple test(s)" to determine illegal restraints of trade. He indicates that the "true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition." There is obvious uncertainty and unpredictability in applying that kind of test. And finally, Justice Harlan, dissenting in the Northern Pacific Railway case in 1958 cites the "confusion" produced by Justice Black writing for the majority "as to what proof is necessary to show per se illegality of tying clauses in future Sherman Act cases."

Third, the general language of the law has required that the major antitrust policies be shaped and expressed by the judiciary. This has led to applications of and developments in the antitrust law, some of which may be said to be anticompetitive and genuinely in conflict with the declared purposes of our antitrust statutes.

Major historical developments affecting the nature and market structure may have rendered obsolete many 19th century conceptions of antitrust and, at the same time, have generated a need for different antitrust rules and weapons.

Perhaps the most important of these historical changes is the evolution of an essentially laissez-faire economy into a mixed business-government economy.

Still another important historical change, of great importance today, is the growth of multinational corporations and the development of various international economic institutions which have drastically changed the terms of international trade and the business relationships involved in such trade.

Our antitrust laws, as interpreted by the courts, have not kept pace with these changes. Perhaps the courts are not to be blamed for this, for the judicial function is to interpret statutes consistently with their purpose. However, Congress has the responsibility for seeing that laws and their purpose are kept up to date; antitrust policy in changing times should be made by Congress and not the courts.

It is my hope that the Commission to be established by my amendment would give full consideration to the implications of these historical trends for antitrust policy and suggest to Congress appropriate action.

Our antitrust laws are rife with vague statutory terms about restraints of trade and attempts to monopolize which have been given substance and content by the courts by imposing conflicting and contrary mandates in the cases. For example, it is difficult to reconcile the philosophy of earlier statutes with the price equivalency of the Robinson-Patman Act, which tends to dampen competition—though it may be necessary for public policy reasons. As Justice Frankfurter points out in the Automatic Canteen cases, "* * * precision of expression is not an outstanding characteristic of the Robinson-Patman Act—and—exact formulation of the issue before us is necessary to avoid inadvertent pronouncement on statutory language in one context when the same language may require separate consideration in other settings." And just 2 months ago in the Portland Retail Druggists case, Justice Blackman struggled with the "proper construction" of an exemption from the Robinson-Patman Act when both parties to the suit relied heavily and oppositely on unclear legislative history.

Confusion has been increased too by the overlapping jurisdictions of the Justice Department and the Federal Trade Commission, which should serve separate prosecutorial and regulatory functions; and, by the uncertain relationship between private triple damage antitrust suits and suits brought by the Government.

The problem facing lawyers and businessmen was well summarized by Robert H. Jackson when he was Assistant Attorney General for Antitrust:

> In view of the extreme uncertainty which prevails as a result of these vague and conflicting adjudications, it is impossible for a lawyer to determine what business conduct will be pronounced lawful or unlawful by the courts. This situation is embarrassing to businessmen wishing to obey the law and to government officials attempting to enforce it.

If anything, the situation has become far worse since that statement was made in 1938. The Antitrust Review and Revision Commission could perform a great service by laying a basis for a consistent and predictable antitrust law.

Congress has had the benefit of two Presidential task force reports on the antitrust laws, commissioned by Presidents Johnson and Nixon, although the last of these was published 6 years ago. These reports made several interesting observations and suggestions. Proposals for legislative action ranged in scope from the breakup of very large firms in highly concentrated industries to a limitation on the duration of antitrust decreases. But, I believe two features of the reports tended to render them ineffective.

First, in large part the focus of the reports was on the technical improvement of existing laws rather than the review and reordering of substance. It may be of course that analysis would support the substantive principles of our existing laws, but I believe that it is most important that such an investigation be made. A commission would have the mandate to do so.

Second, the task forces were not made up of officials in a position to effectuate their policy conclusions; the reports were simply forwarded by experts to officials who had not participated in making the studies and recommendations.

The Commission to be established by the amendment would insure the involvement of Senators and Members of Congress and executive officials who would be in a position to help implement their proposals. These are among the reasons why I believe it is necessary to establish a high-level Commission to study all aspects of our antitrust policy and make appropriate recommendations to Congress for revising the law. Only on the basis of the recommendations of such a Commission is Congress likely to be moved to action. Such a Commission could be a very effective instrument of reform.

I am not suggesting that we scrap our antitrust laws or that the competition they seek is an anachronism. Nor am I so naive as to think that the Commission will resolve all the disparate views about the role of antitrust policy into one broad consensus. However, the time has come when I feel the Commission could make recommendations which would attract broad support in Congress and have a major effect in improving and facilitating our favorite enterprise system.

Antitrust laws are today one among our techniques of regulating our economy. The Commission would be expected to examine into the structural issues which are at the core of antitrust policy and other forms of regulation.

In addition, there are a myriad of special problems in the antitrust area which have occasioned much discussion and litigation in recent years, as to which Congress ought to have some informed judgment available to enable it to consider legislative policy in specific areas.

Thus, the Commission could profitably give its attention to marketing techniques. With the growth of the economy a number of novel marketing techniques have evolved, and with them have come inevitably, antitrust problems. These problems include resale price maintenance, limitations on competition between distributors, and a whole panoply of problems connected with franchising.

The Commission could also perform a valuable service by clarifying the relationship between the Justice Department and the FTC in the enforcement scheme. At present, there is a good deal of overlap in their functions, particularly under the Clayton Act.

Similarly the relationship between private triple damage antitrust actions and Government actions could be clarified.

Another area in which the Commission clearly could make a most valuable contribution is in the application of our domestic antitrust laws to U.S. foreign trade and investment. For many years, experts have been pointing out how the rigid application of the antitrust laws has put our exporters at a serious disadvantage abroad. That is not a matter to be taken lightly in these days of concern with our balance of payments and our trade balance.

No less pressing is the need to encourage the investment of private capital of the United States and other developed countries in the developing countries. Again, it is widely felt that our antitrust laws are an inhibiting factor, particularly to the establishment of consortiums of the United States and other private companies from industrialized countries grouping to invest in less developed countries. In both instances, there is a deep conflict between our antitrust philosophy and other major national policies when there should be coordination and thoughtful accommodation between them.

Many experts have concluded that uncertainty about the enforcement of U.S. antitrust laws extraterritorially is the greatest single inhibitor to increased foreign trade and investment. The report of the ABA Committee on Trade Regula-

tion in 1963, for example, highlights the following specific areas of uncertainty in this field:

First, uncertainty as to the terms under which a U.S. business may enter into a joint venture with a competitor, either American or foreign, to engage in business abroad;

Second, uncertainty as to the extent to which U.S. business may cooperate in association with foreign competitors, even when the association is required or permitted by the laws of the foreign country where the activity takes place;

Third, uncertainty as to the extent to which a U.S. business may include territorial and other limitations in patents, trademarks, and knowhow licenses;

Fourth, uncertainty due to conflicts between antitrust laws of the United States and the laws of foreign countries, and economic communities, such as the European Common Market; and

Fifth, protests by foreign governments due to the extraterritorial application of U.S. antitrust laws to their nationals.

The list of critical cases which the proposed Commission would be charged with studying could be elaborated at much greater length. But these are some of the major areas of concern.

In the last analysis the enormous job of reviewing, recommending, and enacting the antitrust laws is with the Congress. The tendency has been in recent years for a major part of the antitrust policy to be articulated by the enforcement agencies and the courts. The Commission I propose would enable Congress, if it will, again to establish basic antitrust policy; and such policy is basic to the economic future of the United States at home and abroad and to its leadership in world affairs.

In short, the keystone to effective operation of the modern American economy may be a revision of the antitrust laws. Our antitrust laws, now over 80 years old, may well have become obsolete. It is high time that Congress take the matter in hand to determine our national antitrust policy on U.S. business—marvel of our world and of economic history. We could help enable it to perform its lengendary feats for our people and for peace and well-being and justice in the world, if we reviewed the underlying rules under which it operates.

In addition, I would like to state that I believe this amendment is quite consistent with what I feel the administration believes in in this field, and I hope that the administration will support it.

I hope very much that this proposal to study and revise the antitrust laws will, at long last, have the positive action which it so richly needs and deserves in the interest of the American economy.

In short, Mr. President, as the antitrust laws determine so heavily what will happen in the American economy, they should now be definitively reviewed, and my cosponsors and I submit the amendment for that purpose.

I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I simply wish to say how much I appreciate the leadership the Senator from New York has taken in presenting this amendment to the Senate. It has been a long-time interest of his, and a consistent interest, which he has pursued very faithfully over a number of years.

I concur in what the Senator has just said about the need for a new look at the basis of the law. The Brownell Commission, established by Attorney General Herbert Brownell, one of our great Attorneys General, did a significant and important work in codifying our antitrust laws, but, as the Senator from New York has stated, it merely accepted the law as it is, or as it then was, and made very little innovative change or creative contribution to what the law ought to be. That, I think, is what the Senator from New York, myself, and the other cosponsors perceive as necessary.

I think the way the Senator from New York proposes to do it is important. Years ago, when I was a member of the other body and proposed a similar plan to the then president of General Motors, he said:

> Yes, there ought to be changes in the antitrust laws.

And he was all for them, but he said:

> I dont know what kind of changes you fellows in Congress would make.

It seems to me that the way the Senator from New York has structured this commission, to give weight not only to what Members of Congress may feel, but to what people in the private sector feel, is a very constructive approach to one of the most important issues before the country.

Mr. JAVITS. I thank my colleague.

I am honored to be joined in this amendment by the Senator from Nebraska (Mr. HRUSKA). This is, again, an illustration of the fact that to whatever degree men and women in Congress agree or disagree, it always has the most profound respect for the case which is before it. Senator HRUSKA and I often find ourselves in disagreement, but on occasion we find ourselves in complete agreement. I am delighted that he has joined, as he has done for some years, in this effort.

Mr. HRUSKA. Mr. President, I acknowledge gratefully the kind remarks of the Senator from New York. I think it is at least in four or five Congresses that he and I have joined in the noted Javits-Hruska political axis to attempt to gain favorable consideration for this kind of a commission. The case for it is good, it is strong, and it should be done.

Mr. President, as I have done for a number of Congresses I join the distinguished senior Senator from New York (Mr. JAVITS) in sponsorship of an Antitrust Review and Revision Commission. Its purpose would be to examine our antitrust laws in their entirety and make recommendations for revising them.

It would be a bipartisan commission composed of some Members of Congress, members appointed by the executive branch, and also experts from the private sector in this field.

In his logical and well-stated remarks explaining the necessity and high desirability of such a commission, the Senator from New York drew well upon his vast experience in this field. His remarks are well documented. They are clearly stated. This Senator is happy to subscribe to them as the basis for justification for the enactment of the bill to establish such a commission.

Times and conditions have changed radically since the antitrust laws were first enacted, the Sherman Act in 1890 and the Clayton Act in 1914. While some amendments have been enacted since then, the need for a major review of the body of antitrust law has been apparent for a long time.

Corporate structure in the United States has changed vastly. Distribution and merchandising of products are nothing like what it was in the earlier years.

Attorney General Herbert Brownell, Jr. on June 26, 1953, announced his intention to establish a national committee to study the antitrust laws. The members of that committee and the conferees of that committee, and the Government liaison with that committee, make up the large percentage of who's who among the experts in the antitrust field in this country. Their document was published on March 31, 1955, which contains 393 pages of a report which has been constantly referred to up to this date in hearing after hearing by the Antitrust Subcommittees of both the Senate and the House and other congressional committees. Some of the suggestions in that report have been enacted since then, and other suggestions in that report have prevented bad legislation in the antitrust field from being placed on the books.

The extent of Government regulation and supervision has vastly increased. The labor relations and productivity of labor have undergone vast alterations. There have been innumerable court decisions which should be taken into consideration in revising the statutory law. Our preeminent position and the urgency of improving and expanding it further in the field of international trade should receive prime consideration in any revision in this law.

Further, the burdens on our Federal court systems should be a factor in deciding how to refashion our antitrust laws. Antitrust cases have increased in number and in time consumed to an alarming and very substantial degree. This type of case is heavily responsible for the mounting burdens of docket congestion in Federal district courts.

Some time ago the weight assigned to Government antitrust cases was placed at 8.0 compared with 1.2 for tax cases and 1.7 for condemnation cases. Private antitrust cases were weighted at 4.0 compared to only 1.8 for civil rights cases and 0.7 for Fair Labor Standard Act suits. These figures may have changed somewhat in the intervening time, but essentially they will retain their relative position in my judgment.

Noted economists, lawyers, educators, and Government officials have urged in years past a complete review of our antitrust laws. They have done so realizing the necessity to meet the many challenges of the future in our economic security. We have put off too long this much-needed study and revision commission.

It is my hope that progress can be made soon on this measure.

Mr. President, I join the Senator fully,

and hope the measure will be approved. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Alabama.

Mr. ALLEN. I support the concept of this commission. The only defect I see is that it is being created along wtih some far-reaching basic fundamental changes in the antitrust laws. I think the Senator really should have offered his amendment as a substitute to the pending substitute, because it seems rather strange to me that we are setting up a commission to make recommendations as to changes in the antitrust law and, in the very same bill, we are passing a bill that has the most far-reaching effects in the antitrust field since the bill of the distinguished Representative from Alabama, Judge Clayton, was passed in Congress. So I am just wondering why put this on now and then go ahead with this basic and fundamental change in the antitrust law. Would it not be much better to delay these enactments on the changes in the law and await the recommendations of this fine commission that the Senator is having set up?

Mr. JAVITS. Mr. President, the Senator from Alabama, as usual, validates his reputation here for being very astute. Of course, this could be a substitute for the bill, but Senator HRUSKA and I have been waiting for 8 years to get to the point where this could be done at all. Those who believe in the existing antitrust laws are not prepared to lay them aside, and indeed I am not myself, because we have to have some economic policy on the books, and right now that economic policy is the existing antitrust laws interpreted by the courts. As to this bill which is before us now, the Senator again is technically correct, that we are dealing with the antitrust law, because the enforcement machinery is a very important element of the antitrust law, but I am dealing with the substantive law itself and that is not in any way changed or affected except as stricter means of enforcement may change or affect the antitrust law substantively.

So, my amendment is completely consistent with the bill, but it does take account of the fact that, under different circumstances, Senator HRUSKA and I and before him Senator Wayne Morse and I, tried for years to get this very thing done. It is very unfortunate that it was not done. We would be in a much better position to judge parens patriae, and everything else, if it had been done, but this is life, and it was not.

But within this frame of reference, when those who believe in the existing antitrust laws feels that they want to fortify questions of enforcement, it becomes very appropriate and even acceptable to them that the substantive law should contemporaneously be renewed at the same time that they make every effort to enforce the existing law.

As the need in economic terms in my judgment and, I think, in the judgment of the most Senators is so urgent, we have taken this opportunity which, as I say, seems generally acceptable to go ahead in this way.

What I am saying is really not a valid argument against the Senator's proposition. It is simply an explanation of why we are where we are and why I cannot see that it is inconsistent, though I am sure in pure logic the Senator's proposition is absolutely correct.

Mr. ALLEN. If the Senator will yield further, if this blue ribbon commission is being set up in this area and on deliberation and study of the problem they would feel that Congress had acted ill-advisedly in passing these amendments to the antitrust law, would the Senator in all likelihood look with favor on the recommendation of the commission if it recommended making changes in this area?

Mr. JAVITS. I certainly would.

May I point out to the Senator that if they come up with a new concept of antitrust law, naturally, the remedies and the techniques of the enforcement would have to follow that new concept. I could give the Senator many instances of that, but I am sure he could think of them himself so that we would understand, of course, that this is advisory to us. There is nothing compelled upon us. But I certainly would look with favor upon whatever they recommended, either in the substantive or adjective field.

Mr. ALLEN. I say to the distinguished Senator that while I favor this concept I believe that it follows too closely in the tradition of Congress to act first and study later.

Mr. JAVITS. I yield the floor.

Mr. KENNEDY. Mr. President, I want the record at this point in the discussion and debate to indicate that the members of the Antitrust Subcommittee feel that the hearings and study by the subcommittee over the period of the last 8 to 10 years fully and completely justify the legislation that we have before us at this time. Basically this bill strengthens enforcement for the existing antitrust laws.

The amendment which is being offered by the Senator from New York, and others, addresses a much broader and different variety of antitrust issues and questions which I feel would generally be useful. I think in many instances it is true that many of those issues have already been examined in very considerable detail by the Antitrust Subcommittee. I do think that the amendment is useful, and I would like to point out that the amendment itself has specifically recognized the need for and importance of the current legislation. It starts off, in section 601, "In pursuance of title I," which is the declaration of policy in the Hart-Scott amendment. In that declaration of policy it says:

> It is the purpose of the Congress in this act to support and invigorate effective and expeditious enforcement of the antitrust laws . . .

So in this sense this amendment offered by the Senator from New York is complimentary; it supplements the central thrust of the legislation which, as I say, is basically antitrust enforcement. Our bill is trying to put teeth into the various existing antitrust laws.

I certainly do not object to this study, and I think that it can have some value, for example, in the area of assessing the implications of antitrust policies on unemployment. That happens to be an issue of very great significance and importance, especially in light of the extraordinary fluctuations in our own economy.

I think there are other areas which this study is supposed to review which can be useful to us. One of them I would certainly expect would be the monopoly provisions of the Sherman Act—as to why it takes such an extraordinary period of time to break up large concentrations of power. I would hope that that commission would review this.

But I daresay that I take issue with my friend and colleague from Alabama who has suggested that because we are doing a study, therefore, we either do not have to enforce the existing laws, or do not have to provide the remedies and tools which are included in this legislation. I quite frankly feel they are more than justified by the record before the Senate today.

So I say that we are prepared to accept the amendment.

I shall ask the Senator from New York a question. He mentioned that six private members would serve on the commission; this is provided on the bottom of page 2 in section 602. Does the Senator include within those six private members not only representatives from business and industry, but also representatives of various consumer groups?

Mr. JAVITS. Or labor.

Mr. KENNEDY. Or labor, and other academicians or thoughtful people who have given time and attention to this issue.

Mr. JAVITS. My answer to that is unequivocally yes, and I tried to cover it in the next subsection, which is headed "Representation of Varied Interests" and reads:

> The membership of the commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

Mr. KENNEDY. That would certainly be my interpretation of it. But I do think that it is helpful.

Mr. President, I am prepared to support the amendment in behalf of the managers of the bill, and I only want to add the final thought that I do not think that this in any way weakens nor should weaken the essential and compelling thrust of this legislation, which I think has been fully and completely justified in the course of the hearings that have taken place during the past year.

Mr. President, I urge my colleagues to support this amendment, and I hope the Senate will accept it.

Mr. JAVITS. I am very grateful to Senator KENNEDY and Senator HART for looking with sympathy upon this amendment. I think that, in the eyes of both opponents and proponents, it will be a healthy and constructive element of this bill.

Mr. President, I am prepared for the vote, if no other Member wishes to speak.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Hawaii (Mr. FONG), the Senator from Hawaii (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 73, nays 0, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—73

Abourezk	Garn	Metcalf
Allen	Glenn	Morgan
Bartlett	Goldwater	Muskie
Beall	Gravel	Nelson
Bentsen	Hansen	Packwood
Biden	Hart, Gary	Pastore
Brooke	Hart, Philip A.	Pearson
Buckley	Hartke	Pell
Burdick	Haskell	Proxmire
Byrd, Harry F., Jr.	Hatfield	Randolph
	Hathaway	Ribicoff
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Schweiker
Case	Hruska	Scott, Hugh
Chiles	Huddleston	Sparkman
Clark	Jackson	Stafford
Cranston	Javits	Stennis
Culver	Kennedy	Stevens
Curtis	Leahy	Stone
Dole	Long	Taft
Domenici	Magnuson	Talmadge
Durkin	Mansfield	Thurmond
Eagleton	Mathias	Tower
Fannin	McGovern	Young
Ford	McIntyre	

NAYS—0

NOT VOTING—27

Baker	Inouye	Percy
Bayh	Johnston	Scott, William L.
Bellmon	Laxalt	
Brock	McClellan	Stevenson
Bumpers	McClure	Symington
Church	McGee	Tunney
Eastland	Mondale	Weicker
Fong	Montoya	Williams
Griffin	Moss	
Humphrey	Nunn	

So Mr. JAVITS' amendment (No. 1777) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, there was inadvertently omitted from the amendment, unanimously adopted, a provision for appropriations. I estimate not in excess of $500,000 a year for the commission for each of 2 years. I ask unanimous consent that that particular section may be added to the amendment, as adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

AMENDMENT NO. 1772

Mr. THURMOND. Mr. President, I call up amendment No. 1772.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes (for Mr. GRIFFIN) an amendment No. 1772.

The amendment is as follows:

On page 22, line 15, strike everything through line 8 on page 24.

On page 24, line 10, strike "303" and insert in lieu thereof "302".

On page 26, line 2, strike "304" and insert in lieu thereof "303".

On page 26, line 11, strike "305" and insert in lieu thereof "304".

On page 26, line 18, strike "306" and insert in lieu thereof "305".

Mr. THURMOND. Mr. President, this amendment was introduced by the distinguished Senator from Michigan (Mr. GRIFFIN). He is out of town today, and I have been requested to offer this amendment.

Mr. President, I ask unanimous consent that my name be added as a cosponsor to that amendment along with Senator GRIFFIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I would like for the floor manager of the bill to listen closely to this because I feel he might accept this amendment.

This amendment would delete section 302 of the bill which provides for so-called complex antitrust cases to be expedited by the Federal district courts. If the Attorney General certifies that an antitrust case is complex, a court must give the case priority on its calendar.

Section 302 in effect constitutes a legislative reordering of court priorities solely on the grounds that an antitrust case is complex. Nowhere in the bill is there any definition or standards for determining what constitutes a complex case.

Just before a case is complex does not mean it should be given preference. Many other cases of less complexity may be far more important to the parties involved, to consumers and the economy.

With court calendars already overcrowded, there is no justification for further hamstringing the courts without a more compelling reason than is contained in section 302.

I just wonder if the manager of the bill has a statement he wants to make on it.

Mr. KENNEDY. Well, Mr. President, it is my understanding that courts, under the existing legislation, have the flexibility to expedite the case, which is emphasized and mandated by the section deleted by the Senator's amendment.

The amendment of the Senator from Michigan, presented by the Senator from South Carolina, would still in the particular complex cases involved insure that there will be expeditious action which would be taken on these to see that there would be a quick, swift, and hopefully, just solution and resolution.

As I understand it, it is not the intention of the Senator from South Carolina to slow down the consideration of these cases; am I correct?

Mr. THURMOND. There is no effort to slow down the cases. It is just not giving a priority by calling it complex when it may not be complex or when another case may be just as important, and insead of giving it a priority let the court decide the situation.

Mr. KENNEDY. As I understand, it does not deprive the courts of any authority or power they have at the present time.

Mr. THURMOND. That is correct. The court would determine the caliber, and we feel that is a sounder way to handle it than for Congress to tell the court how it should handle the case.

Mr. KENNEDY. As I understand further if the courts desire to use special masters or economics experts, or to exercise their own judgment in setting the timeframe for discovery and trial, they will still have the power to do so?

Mr. THURMOND. I do not know of any reason why they would not, because the judges would have all of the powers they now have. In fact, if we do not pass this the judges will use their discretion in making up calendars, as they usually do, considering all of the cases. But if we do pass this, this will force the judges to do something they may not think is wise or may not think is proper or right. So this leaves it to the discretion of the judges in the matter.

Mr. KENNEDY. With that understanding that this in no way diminishes, restricts, or alters the existing authority and powers of the courts and would not undercut or undermine the need to insure the expeditious handling of particular complex antitrust cases, we would be willing to accept the amendment. I think it is fair to point out that the administration itself has opposed the section proposed to be deleted by this amendment.

Mr. THURMOND. Does the Senator want a rollcall on it or not?

Mr. KENNEDY. No, I do not believe we need a rollcall.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1705

Mr. BUCKLEY. Mr. President, I call up my amendment 1705.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes an amendment No. 1705.

The amendment is as follows:

On page 29, delete lines 24 through 25 and on page 30, delete lines 1 through 3 and insert in lieu thereof the following:

(f) In any action brought under this section, the court shall award reasonable attorneys' fees and costs to a prevailing defendant. For purposes of this section, the term "attorneys' fees and costs" is defined to include the reasonable expenses of witnesses or expert witnesses, the reasonable cost of any studies, analyses, engineering reports, tests, or projects which the court finds necessary to the litigation of the action, and reasonable attorneys' fees based upon the actual time expended by any attorney of a party and his or her staff in advising and representing a party (at prevailing rates for such services, including any reasonable risk factor component).

Mr. BUCKLEY. Mr. President, this amendment proposes to amend section 401 of the Hart substitute; it provides for an award of reasonable attorneys' fees and all costs necessary to support the litigant's position when the defendant successfully defends his case.

When a State attorney general brings an action under the parens patriae provisions of the pending legislation, and does not prevail, the plaintiff or his principal would be obliged to reimburse the defendant who has been literally forced into expenditures which can easily run into the hundreds of thousands of dollars, but who has been vindicated by the results of the litigation. The delegation of power to States' attorneys general without strong provisions to insure that the private parties are left whole when and if the judicial process had vindicated them is wrong. We have heard much about Government abuse and the arrogance of power. It seems to me that without a strong provision for reimbursement of the full costs of litigation in the parens patriae section, the Congress will be establishing conditions where a plaintiff's abuse of discretion or poor judgment is a burden we assign to the defendant. That is very unfair.

I am convinced that the 50 new "defenders of the public interest" proposed in the Hart-Scott substitute must be held accountable for the burdens created by publicly funded litigation that proves to be unfounded. Without a legal fees section, companies can look forward to having "legal wars of attrition" waged against them in any State in which a politically ambitious attorney general sees opportunity in dragging out an antitrust claim. The result would be that even a large corporation—to say nothing of the smaller ones now being bought under the ambit of the antitrust laws—could well be forced into a consent decree settlement for no reason other than a decision that the costs of defense were simply too high to bear.

The House took a modest step to avert such a result by allowing a discretionary grant of legal fees when a State's case is frivolous or in bad faith. It is hard to imagine how a court would define "frivolous" or "in bad faith," let alone the problem of how a defendant would bear the burden of proving the same. We have in such language a problem not unlike the burden of proving "malicious" under the Sullivan doctrine in libel cases involving public officials.

I suggest that these words are very hard to define and the burden of proof probably incapable in most cases of being carried.

I believe we are dealing here with a situation where simple equity—the extraordinary power of Government on the one hand, and the limited resources of private corporations on the other—needs to be addressed.

The mere status of being a defendant in an antitrust action is, in terms of time, money, and anxiety, more punishment than most convicted criminals ever see. Anyone who doubts this assertion should consider the case of Firestone and Goodyear. For 12 years, the Justice Department conducted discovery against those two companies, resisting any and all attempts by the defendants to bring the matter to trial. During that period, defendants spent roughly $2,000,000, in addition to indeterminable amounts of executive time. When finally forced to come to trial, the Justice Department dropped charges, admitting in a 23-page memorandum that it had never had any direct evidence of wrongdoing and that it had used discovery in order to determine whether it had a case.

How many criminal defendants are forced to pay $2,000,000 and suffer 12 years of proceedings in anticipation of trial? I suspect such a situation would be held unconstitutional in most other circumstances, irrespective of the guilt to the defendant. But in the case of Firestone and Goodyear, the Justice Department admitted that it had never had direct evidence of wrongdoing on the part of the defendants.

Mr. President, if we are going to multiply 50-fold the ability of Government to engage in this sort of antitrust litigation, then at least we should be willing to compensate the defendants in instances in which the Government is clearly in error.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we oppose this amendment. Basically, we do not believe that the State is going to involve itself in expensive and extensive litigation, which is going to be costly to the State, for frivolous reasons.

If we are going to put substantial restrictions on the power of an attorney general to use this title—and we are not prepared to accept that approach—then there are other places in this litigation where that issue should be reached.

By accepting the Buckley amendment we are, in effect, saying to the attorneys general that we believe there should be an important inhibition to their bringing many of these particular cases which they may otherwise feel justified in instituting.

It seems to me that what we are saying throughout title 4 is that the instrument of Government, in this case the attorney general, ought to be acting in the public interest and for the public benefit and those cases obviously ought to be carried forward only to protect consumers consistent with public policy purposes.

If we are going to say now that an attorney general is going to have to consider that he believes it is in the public interest that such case be carried forward, he believes the publicy policy is justified, that he believes there has been violation of the antitrust laws, but that if he brings his suit forward and ultimately does not win that State can very well be penalized with very sizable amounts of resources, then I think quite clearly there will be a very serious inhibition to the suit by the attorney general.

There are written into the legislation on page 29 full protections against any kind of potential harassment.

It provides on the bottom of page 29:

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

So the concerns that have been expressed by the Senator from New York, suits being brought in bad faith, wantonly, and for oppressive reasons, are actually reached in the particular language of the legislation itself. This subsection can completely handle the kind of case, I think, that the Senator would be so concerned about.

Furthermore, the States are already under constraint not to file the frivolous suits. If they lose, they recover neither damages nor costs, and the costs in a case like this are considerable in terms of travel and transcripts. Also, if they lose, they must pay court costs, though not necessarily the attorneys' fees, to the prevailing parties.

The Federal Rules of Civil Procedure rule 54(d) provides that "costs shall be allowed as of course to the prevailing party unless the court otherwise directs." Under 28 U.S.C. 1821, 1920–23, the following costs generally are paid to the prevailing party: witness fees, court fees, stenographic transcript costs, deposition costs, printing costs, and document reproduction costs.

That serves as an inhibition, I believe, and the particular provisions of the legislation that deal with cases which are brought by the attorney general in bad faith, or wantonly, or frivolously, are also already covered.

So we do not believe that that amendment is justified or warranted. We feel satisfied that there are adequate protections built into the legislation.

Mr. BUCKLEY. Mr. President, I must confess that I am not persuaded by the arguments advanced by the distinguished Senator from Massachusetts.

In the first place, we are opening up a vast new area of potential plaintiffs.

We do know politics has been known to raise its ugly head in the abuse of power.

Now, the power of an attorney general to bring suit, he may employ all kinds of private lawyers under a contingent fee arrangement, thereby vastly expanding the base for opportunities for harassment.

I also find not very persuasive the suggestion that because there are provisions in the bill that suggest that a court may, in its discretion, award reasonable at-

torney fees to a prevailing defendant will, in itself, act as restraint on an attorney general who, after all, and like a private party, is not expending his money in carrying forward the prosecution of a case, but rather, the taxpayers' money.

Finally, it seems to me what is essential is, given these opportunities for harassment, given the increasingly high costs of this kind of complex litigation, given the type of evidence that must be mustered, must be assembled in defense of accusations of antitrust violations, that the defendant is entitled to the certainty of reimbursement in the event he should prevail for the simple reason that a business necessarily must make a determination as to whether the costs of defense justify going forward, even when there is a certainty on the part of the defendant that the defendant is in the right and will be vindicated by a judge.

For all these reasons, I urge my colleagues to adopt my amendment as an act of equity, as a determination that we will do something in this to redress the enormous imbalance that now exists between the power of a government and the power of a private company.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I am unconvinced by the arguments put forward by the Senator from New York. It is quite clear in the legislation itself that if cases are brought in bad faith, wantonly, or oppressively the courts are completely empowered to make the kinds of grants for the prevailing defendant which is a matter of concern to the Senator from New York.

I believe we have to ask ourselves if we are formulating and fashioning legislation which is designed to provide protection for consumers in matters dealing with the well-being of the consumers in a particular State.

We have to recognize that the attorney general is charged with fulfilling the requirements of law and to protect and remedy wrongs against his State's residents. He is expected to do so. The amendment of the Senator from New York would provide, I think, an incentive for him not to do so. If he is going to act irresponsibly, there are adequate protections in the legislation to deal with the kind of exaggerated case upon which the Senator from New York has commented.

For those reasons, I would say that there are adequate protections to deal with the case. If we go the full route as suggested by the Senator from New York, I think, as a matter of public policy, it is going to serve as a significant inhibition on the ability of the attorneys general of our several States to deal effectively and vigorously with the protection of the consumed interest against violations of the antitrust laws.

Mr. MORGAN. Mr. President, I do not know that I can add anything to what the distinguished Senator from Massachusetts has said, except to say from my own experience, as an attorney general and a practicing lawyer, I can say that this amendment would have the effect of destroying almost all of the antitrust legislation now on the books.

There are already provisions in this bill to protect the public and to protect industry from attorneys general who act in bad faith. They would not only have to pay the attorney fees but pay court costs.

Under the present law, even if they lose a case and are not acting in bad faith they have to pay court costs. This, in itself, can run into astronomical figures when we are dealing with this kind of legislation. If we add to that the attorney fees, it would make it impractical, if not impossible, for any attorney general in America to file a lawsuit.

I apologize to the Senate for using personal references, but I have been involved in a number of these litigations and I have not yet been involved in one in which the defendants were not represented by dozens of attorneys.

In the tetracycline case almost every time we went to court there would be a courtroom full of attorneys. If attorney fees had been attached to the State no attorney general would ever have a budget adequate to instigate such an action.

The provision of good faith, I believe, provides all of the protection that our system of jurisprudence should provide. We rejected the British system in 1776, of requiring attorney fees to be paid to the defendant if the case was lost. If that situation prevailed, as it did then, no one would ever go to court. So I hope this amendment will be defeated.

Mr. BUCKLEY. Mr. President, I suspect that people probably have their minds made up. Nevertheless, I would like to make a couple of remarks in answer to my friend from North Carolina.

First of all, my amendment applies only to parens patriae cases. It does not affect the antitrust statutes presently on the books.

No. 2, I am not talking about reimbursement of attorney fees by the loser in private litigation. I think this is an area where we have made significant strides from the old British system. My amendment would apply only to nonprevailing governmental prosecutors.

Furthermore, my amendment is limited to the reimbursement of reasonable attorney fees. If defendants bring on a superfluity of lawyers, that will not mitigate against the State.

Frankly, I really do not believe that a State attorney general would be less willing to bring a case that he felt to be meritorious because, after litigating that case, it might be found that, in fact, it was not meritorious, and that the defendant had been unjustifiably forced to incur expenses of a quarter million dollars. It seems to me that an attorney general ought to welcome the opportunity of seeing that defendant made whole.

Mr. President, I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I move to table the amendment of the Senator. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA) the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 46, nays 29, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—46

Abourezk	Hart, Gary	Morgan
Bentsen	Hart, Philip A.	Muskie
Biden	Hartke	Nelson
Brooke	Haskell	Pastore
Burdick	Hatfield	Pell
Cannon	Hathaway	Proxmire
Case	Jackson	Randolph
Chiles	Javits	Ribicoff
Clark	Kennedy	Schweiker
Cranston	Leahy	Scott, Hugh
Culver	Long	Sparkman
Durkin	Magnuson	Stafford
Eagleton	Mansfield	Stennis
Ford	Mathias	Stevenson
Glenn	McGovern	
Gravel	McIntyre	

NAYS—29

Allen	Domenici	Packwood
Bartlett	Fannin	Pearson
Beall	Garn	Roth
Brock	Goldwater	Stevens
Buckley	Hansen	Stone
Byrd, Harry F., Jr.	Helms	Taft
	Hollings	Talmadge
Byrd, Robert C.	Hruska	Thurmond
Curtis	Huddleston	Tower
Dole	Metcalf	Young

NOT VOTING—25

Baker	Inouye	Nunn
Bayh	Johnston	Percy
Bellmon	Laxalt	Scott, William L.
Bumpers	McClellan	Symington
Church	McClure	Tunney
Eastland	McGee	Weicker
Fong	Mondale	Williams
Griffin	Montoya	
Humphrey	Moss	

So the motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, we yield to any Senator who wishes recognition.

AMENDMENT NO. 1718

Mr. HRUSKA. Mr. President, I call up my amendment No. 1718.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes amendment No. 1718.

The amendment is as follows:

On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee basis".

Mr. HRUSKA. Mr. President, the purpose of this amendment is to make it clear that the attorneys' fees which may be paid by States to any outside counsel retained by them may not be made contingent on the success of the action, and must be determined on the basis of actual time spent—not on the basis of a percentage of the total recovery, as is done in typical contingent fee arrangements.

Courts have in the past approved contingent fee arrangements which award attorneys a percentage of the total recovery, and which have often resulted in fees that run into the millions of dollars. The reason for awarding such astronomical fees is to provide incentive for the private bar to assume the substantial risk of prosecuting actions involving numerous small claims, which, if unsuccessful, can leave the attorneys with no compensation whatsoever.

There will, however, be little risk in connection with actions brought by the States, which will be paying their legal staffs in any event, and which can afford to pay outside counsel on an hourly basis regardless of the outcome of the action.

Accordingly, there is no justification for permitting contingent fee arrangements, which would result in windfalls to attorneys, not compensation for assumption of risk, and of course, to allow those huge astronomical fees would significantly reduce the amount of the damage fund that would be available to the injured consumers themselves.

Mr. President, it is the purpose of this amendment to effectuate that type of arrangement.

Mr. HELMS. Mr. President, I do hope the Senate will approve this amendment.

In amendment No. 1701, the term "State attorney general" is defined. The pending amendment No. 1718 would add to the definition these words:

, except such term does not include any person employed or retained on a contingency fee basis.

Obviously, Mr. President, the purpose of this amendment is to make clear that the contingent fee arrangements are prohibited in such suits.

The purpose of parens patriae or a class action is to restore the rights of a deprived class.

The pending bill would not operate to restore the rights of the deprived class. Under present law such rights are not restored. Under the pending bill there will be even less likelihood that they would be.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. The real beneficiaries of such class suits are the lawyers who generate and financially support the suit.

The Hotel Telephone Charges case was a class action in the name of millions of telephone users with individual claims of about $2 apiece. It was a case against some 600 hotels and hotel chains.

The Ninth Circuit Court of Appeals denied certification of the class saying:

In view of the non-existent or miniscule recoveries that are likely to accrue to the supposedly intended beneficiaries, it is not surprising that most of the named beneficiaries are attorneys, acting for themselves.

Mr. President, that is an understatement, if ever there was one.

The attraction of astronomical fees creates a new class of interested litigants—the lawyers. It is they who are the largest and the real parties in interest. The suits are brainchildren of the attorneys who receive the bonanza for themselves with little of significance for the consumer parties.

A case in point is Cotchett against Rent-a-Car. It involved an action seeking to recover a $1 surcharge on rental automobiles for a class of 1,400,000 persons.

The court—U.S. District Court for New York—refused to certify the case. The judge stated:

The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of a class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this law suit.

The judge's decision was pursuant to rule 23 of the Rules of Federal Civil Procedure. But enactment of that rule will do away with it, thus facilitating such a far-fetched action to be brought.

In the Eisen case the court said it was "reluctant to permit actions to proceed where they are not likely to benefit anyone but the lawyers who will bring them."

EXAMPLES

The junior Senator from Idaho (Mr. MCCLURE) on May 25, in the Senate, gave many lurid examples of the manner in which some lawyers feather their own nests in such actions. Here are some of them:

A sum of $635 per hour in the Detroit case, Detroit against Grinnel case. Counsel in that case called it a modest figure because in another case he had received $3,500 per hour.

Ellis against Flying Tigers case: $1,000 per hour.

A $9 million fee in the Gypsum Wallboard case.

A $1,100,000 fee in the Library Book case.

The famous tetracycline case. The final settlement totaled about $213 million. Attorney fees totaled $42 million. Consumers were allocated $60 million. But only 46 percent of that was actually paid out. This was $28 million. Attorney fees were 150 percent greater than actual receipts of consumers.

Mr. President, who is getting ripped off in this? Who is talking about the consumer?

ANOTHER FIDUCIARY WRONGDOER IS CREATED BY CONTINGENT FEES

U.S. District Judge Richey of Washington, D.C., refused to be bound by a contingency fee contract. He pointed out that the individual claimants got insignificant sums. These are the consumers. They get the pittance.

He recalled to mind that the purpose of the suit was to restore rights of a deprived class, and then he wrote:

In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute substitution of one fiduciary wrongdoer with another.

"ILL GOTTEN GAINS MUST BE DISGORGED"

Advocates in recognition of the phenomenon of the real purpose of class suits not reaching the beneficiaries significantly—and perhaps anticipating such a showing—have shifted ground by repeating time and time again: "Ill gotten gains must be disgorged."

Thus, with great ease they forego the failures of the real purpose of class actions, which is to restore rights to a deprived class. They try to elevate their cause by the pseudo moralistic intonation of "ill gotten gains must be disgorged."

Mr. President, the question immediately arises: "Disgorged to whom?"

In the main, to the lawyers—who are the real parties at interest, since the recoveries to the intended beneficiaries are either nonexistent or miniscule.

The record plainly shows the real party at interest is the lawyer holding a contingent and unconscionable fee contract. No other face can be put upon it. The Senate, if it is at all concerned about the consumer, had better recognize that fact right now, with this amendment, and approve it overwhelmingly.

I repeat the words of Judge Richey.

In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute substitution of one fiduciary wrongdoer with another.

As is said in the vernacular, Mr. President, that is calling it like it is. Anybody who pretends to the contrary has a lot of explaining to do in order to satisfy the Senator from North Carolina.

It would be pertinent to ask: Who will force the second fiduciary wrongdoer to disgorge the fat fees of his contingent fee contract?

The answer is plain: The real solution is to deny such an unholy alliance of the contingent fee contract and class action.

This is what the pending amendment would accomplish—that is all it seeks to do—by prohibiting contingent fee arrangements.

No doubt loud cries will arise protesting the idea of letting the violators retain their "ill gotten gains."

Mr. President, this can be said with firmness: To prohibit the contingent fee contract does not mean that the violator of antitrust laws will be allowed to keep his ill-gotten gains.

This proposition will be addressed in

greater detail elsewhere in the current debate.

At this point, I make only brief reference to it as follows:

There are other means with which to meet that problem; means which are more direct and more effective; means which are seasoned in procedure and productive of suitable punishment and deterrent factors.

Fines and imprisonment: Criminal prosecution is one of these means. In per se, antitrust violations, this approach has heretofore been preventive. It is even more so in the greatly increased penalties only recently enacted by Congress.

Parenthetically, Mr. President, I point out that the Senator from North Carolina was one of the cosponsors of the bill providing for those increased penalties: Up to 3 years in prison, and up to $1 million in fines, or both, per violation.

Civil penalties and private suits for treble damages under present practice and procedure are also formidable. Truly aggrieved plaintiffs who can be present in court, who can prove injury, and with proof of actual extent of damage sustained. These are constitutional ways, truly resulting in restoration of rights to deprived persons. The aggrieved will receive the proceeds.

Prohibition of the contingent fee will go a long way to get back to this prime objective of restoring rights to deprived persons.

In any event the pending bill does not posses the capability of achieving that objective.

Even now under present parens patriae or class actions, which are harder to gather than they would be under the pending bill, there is more than ample evidence of abuses in lawsuits filed by lawyers with contingent fee contracts.

The situation would be virtually intolerable if the pending bill is enacted minus the pending amendment.

Lawsuits under the pending bill, if it became law, would be ostensibly filed under the imprimatur of the State. Such suits, now and under the new bill, are filed to coerce settlements, not to be tried. Certification of a class immediately creates an uncertain and enormous exposure, often large enough to bankrupt a defendant.

Ninth Circuit Court Judge Duniway put it this way:

> I doubt that plaintiffs counsel expect the immense and unmanageable case that they seek to create to be tried. What they seek to create will become (whether they intend this result or not) an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust. (508 Fed. 2nd 238)

Prof. Milton Handler, considered by many as one of the deans of America's antitrust bar, testified before the Senate Judiciary Committee. On the point just made, he stated:

> Any device which is workable only because it utilizes the threat of unmanageable and expensive litigation to compel settlement is not a rule of procedure . . . it is a form of legalized blackmail. If defendants who maintain their innocence have no practical alternative but to settle, they have been de facto deprived of their constitutional rights to a trial on the merits. The distinctions between innocent and guilty defendants and between those whose violations have worked great injury and those who have done little if any harm become blurred, if not invisible. The only significant issue becomes the size of ransom to be paid for total peace.

It is undeniable that very, very few large antitrust cases are tried. That is a matter of record. And no large consumer class case has ever been tried.

Suits in the name of a State are an exercise of State power. The State should exercise control over the use of State power, not only in theory, but in fact. If a State attorney general were able to delegate this function to private counsel on a contingency fee basis, the political and financial stake he would experience in otherwise prosecuting the action would be substantially diminished. Thus State power would be exercised without the guarantee of State supervision and the accountability which goes with it.

The pending amendment excludes the use of fee arrangements whereby the State agrees to pay a private attorney a percentage of the recovery if the attorney wins the case for the State. The amendment prohibits any contracts which made the outside counsel fees or the amount thereof contingent on the amount, if any, of the recovery or on whether there is a recovery.

Frankly, Mr. President, even this is going too far when we delegate it, in my opinion, when there is delegated by the bill to a State attorney general the power, authority and jurisdiction to file such parens patriae or class actions. We should leave it to the people of the several states, speaking through their elected legislators, to decide whether this power should be conferred and exercised by the attorney general of the State.

If this protective condition is not imposed on the use of the parens patriae power, the whole concept should be rejected.

Meantime, one vital step in this legislative proceeding is to adopt the pending amendment, which would prohibit contingent fee contracts.

I so urge the Senate to do. I reserve the remainder of my time.

Mr. MORGAN. Mr. President, my distinguished colleague presented some very interesting arguments. I wish that time would permit me to rebut those but, as the President knows, I am limited in time. Therefore, I shall restrict my remarks to what I consider to be the crux of the case.

Members of the Senate should remember that what this amendment is seeking to do is not to outlaw percentage contracts with attorneys; that is, where an attorney would get a given percentage if he won the case. That is the impression that one would gather from listening to the arguments. What this would do, Mr. President, is outlaw any contract with an attorney whereby the attorney would be paid only if he won the case.

There is a great difference, because, in this bill, there are safeguards set against the very complaints that my colleagues complained of. On page 29, it is provided that the court shall determine the fee. It does not say the court shall approve a contract, but it says the court shall determine the fee and, in the legislative history in the committee, it spells out the basis on which the fee shall be determined.

It talks about hourly charges and, of course, it would take into consideration success. But, Mr. President, this is a safeguard against frivolous lawsuits. No attorney or no private law firm is going to enter into a contract or bring a lawsuit if he is not being paid anything unless there is reasonably good grounds to believe that he can recover. This is a real safeguard.

Further, Mr. President, as I mentioned earlier, there are only 77 attorneys in the various 50 States assigned to antitrust departments in the offices of the attorneys general. They have to rely on private attorneys. But this contract would say, until you have the money in your budget to pay them, you cannot hire one. So it is not an amendment to outlaw percentage contracts, because the bill itself does that. It would outlaw all contracts, contingency contracts, which is, in fact, a safeguard.

Mr. President, the record is replete with discussions as to how the fees shall be determined. It says:

> It is the committee's intention that attorneys' fees in section 4(c) cases shall be approved under the same criteria and the court is directed to look behind any fee arrangement which may be made between the State and its counsel.

Then it goes on in the record to set out that the court shall take into consideration the amount of work that has gone into it.

Mr. HRUSKA. Mr. President, will the Senator yield for a yea and nay vote request?

Mr. MORGAN. I yield.

Mr. HRUSKA. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HRUSKA. I thank the Senator.

Mr. MORGAN. Mr. President, I think I made my point clear, but my distinguished colleague pointed out one case that brought to mind an incident that happened to me in Tennessee about 3 or 4 weeks ago, and I wish some private attorney over there would bring a lawsuit.

He talked about the rent-a-car $1 surcharge. I flew into Kingsport, Tenn., and I rented a car. I saw an advertisement of one of the three largest automobile rental concerns, and I believe it was $13.95 a day, no mileage charge, and you buy the gas. So I rented the smallest Chevrolet made, which advertised 35, 36 miles per gallon.

I drove over to a little college in North Carolina and came back. All along the road gas was advertised at $.50, $.52 a gallon. When I started to check in, instead of the rental car company charging me on the basis of the car getting 30 to 35 miles per gallon—it was the very smallest Chevrolet made—they said, "We figured on 19 miles per gallon," and they charged me $.70 a gallon for gasoline when it was advertised all up and down the road for $.50, $.52.

Well, I was only damaged about $5 or $6. But you add $5 or $6 to everybody

else who rents them, and look how much they have been damaged.

Mr. President, I say again the fact that the safeguards are in this bill that the court sets the fee, the report sets up guidelines for how the fee will be set, and the fact that he would not recover unless he is successful is a safeguard against frivolous lawsuits.

Therefore, Mr. President, I move to lay on the table the amendment of the Senator from Nebraska.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming, (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 39, nays 34, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—39

Abourezk	Glenn	Kennedy
Biden	Gravel	Leahy
Byrd, Robert C.	Hart, Gary	Long
Clark	Hart, Philip A.	Magnuson
Cranston	Hartke	Mansfield
Culver	Haskell	Mathias
Durkin	Hathaway	McGovern
Eagleton	Huddleston	McIntyre
Ford	Jackson	Metcalf
Morgan	Pastore	Ribicoff
Muskie	Pearson	Scott, Hugh
Nelson	Pell	Stafford
Packwood	Proxmire	Stevenson

NAYS—34

Allen	Chiles	Randolph
Bartlett	Curtis	Roth
Beall	Dole	Schweiker
Bentsen	Domenici	Sparkman
Brock	Fannin	Stevens
Brooke	Garn	Stone
Buckley	Hansen	Taft
Burdick	Hatfield	Talmadge
Byrd, Harry F., Jr.	Helms	Thurmond
Cannon	Hollings	Tower
Case	Hruska	Young
	Javits	

NOT VOTING—27

Baker	Inouye	Percy
Bayh	Johnston	Scott, William L.
Bellmon	Laxalt	Stennis
Bumpers	McClellan	Symington
Church	McClure	Tunney
Eastland	McGee	Weicker
Fong	Mondale	Williams
Goldwater	Montoya	
Griffin	Moss	
Humphrey	Nunn	

So the motion to table was agreed to.

The PRESIDING OFFICER (Mr. BIDEN). The bill is open to further amendment.

AMENDMENT NO. 1715

Mr. HRUSKA. Mr. President, I call up my amendment No. 1715 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes an amendment numbered 1715:

On page 28, lines 10 through 14, delete the remainder of subsection (b)(1), beginning with the words "by publication," and substitute therefor the following: ": *Provided*, That the court shall order the best notice practicable under the circumstances, including individual notice to all persons on whose behalf the suit is brought who can be identified through reasonable effort.".

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon H.R. 8532, an Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mike Mansfield, Robert C. Byrd, Philip A. Hart, Abraham A. Ribicoff, Jennings Randolph, Gary Hart, Hubert H. Humphrey, Alan Cranston, James Abourezk, Mark O. Hatfield, John O. Pastore, Joseph R. Biden, Jr., Mike Gravel, Walter D. Huddleston, Vance Hartke, Hugh Scott, Warren G. Magnuson.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. HRUSKA. Mr. President, the purpose of amendment No. 1715 is to make the notice specification for subsection (b) of section 4(c) of the bill, title IV, consistent with due process requirements. The actions that the States are authorized by title IV to bring on behalf of persons will finally adjudicate whatever private rights those persons have under section 4 of the Clayton Act. Title IV thus permits those persons to "opt out" of the State action if they do not want their rights bound thereby. The Eisen decision by the Supreme Court, however, indicates that the notice by publication provided for in title IV will be inadequate to preserve these private rights if persons who will be bound by the State action can be identified and given individual notice by mail.

This requirement for individual notice where practicable is expensive and, indeed, is one of the reasons for permitting the States to finance the cost with public funds. Quite obviously, if the States are authorized to bring suit, however, there is no need to eliminate the notice requirement for fear that it cannot be paid by individual consumers.

Mr. President, the proposition we have before us really sounds in the proposition and in the constitutional requirement that there be a case in controversy before the court before that court, a Federal court, can have jurisdiction and would be authorized to proceed.

The law of case in controversy can readily be described as lawyers' law. But, Mr. President, it is real. It reflects the language of the Constitution, and the language is not accidental.

It was carefully chosen. It was designed to limit the Federal courts to consideration of cases of "a judiciary nature, that is, to the decision of controversies between parties who are before the court and subject to the appropriate rules of proof."

In the case of fluid recovery, which is provided for in this bill, the "case in controversy" requirement is not met, for the persons on whose behalf recovery is obtained make no claim, they are not parties to the case, and they provide no proof. For the most part they are simply unknown.

A little bit ago in the Chamber here the Senator from North Carolina described a case, for example, Mr. President, in which the members of the class for which certification was requested numbered 1.4 million persons. On behalf of each of those persons the plaintiff's attorney, who himself was one of the claimants as well as his own attorney, alleged each of the parties was entitled to a refund of $1 surcharge which had been exacted by the Rent-a-Car Co. It was for the recovery of that $1 multiplied 1.4 times that the action was brought.

The court took a dim view of that procedure. Fortunately, there was a situation where rule 23 of the Federal Rules of Civil Procedure applied. Under that rule, the judge denied the certification. Here is what he said in the course of that decision:

The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of the class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this lawsuit.

Mr. President, I think that case is a very good example of many other cases.

Another case is that which is cited as In re Hotel Telephone Charges case, brought out in the ninth circuit. The defendants in that case were over 650 hotels and hotel chains. The number of people in the class that was required or requested to be certified was in the range of 40 million people, each of them having a claim for $2.

Obviously it would be an impossibility to get those people into court. They would not be interested in doing so, and the fact would remain that the parties would be unknown, they would not be in court, and they would provide no proof; and each of these elements, according to the Eisen case, is necessary in order to result in a case or controversy within the language and within the requirements of article 3 of the Constitution.

It seems obvious that a claim on behalf of such persons does not meet the requirements of article III of the Constitution, limiting the jurisdiction of the Federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

There are a number of decisions which go far to show that this question under article III is a substantial one which would be given serious consideration by the courts.

And may I remind the Senate, Mr. President, that the Senate as well as the other body of this Congress is as fully charged with staying within the bounds of the Constitution as are the Federal courts and the Supreme Court itself; and when a serious question exists as to the constitutionality of proceedings such as this, where it is substantial and real and is well grounded, the Senate would be well advised to inquire into it very carefully and be guided accordingly.

One of these cases is the Eisen case Mr. President, Eisen against Carlisle and Jacquelin. It was decided in the second circuit in 1973; the decision was vacated on other grounds in 417 U.S. 156 in the folowing year, 1974. That case involved an effort to obtain a "fluid recovery" on behalf of all persons who had bought or sold odd lots on the New York Stock Exchange between May 1962 and June 1966. It was estimated that there were 6,000,000 members of this group, of whom 2,250,000 could be identified. The basic question in the case was who should bear the cost of giving notice to the members of the class who could be identified.

Mr. President, the requirement of notice, therefore, was very well considered, and was held to be essential and vital, and indispensable for the purpose of establishing a case.

Under rule 23 of the Federal Rules of Civil Procedure, the courts have been able to contend with that situation as they did in the second circuit case, the Eisen case. However, the bill we have before us would do two things, Mr. President. First, the provisions would overcome the ruling of the Supreme Court in the Hawaii case, the case of Hawaii against the Standard Oil Co. There the Supreme Court held that the attorney general of a State had no power and authority to bring suit on behalf of the people of his State in a representative capacity and as a representative of that class. The limit of his authority to bring a lawsuit for violation of the antitrust law, and the treble damages which ensue therefrom, if there is success in establishing that violation and liability, would be only in the event and to the extent that the State of Hawaii itself had a proprietary interest in the recovery and was one of the injured parties and could make a recovery.

The bill before us takes care of that one proposition expressly and very blandly by simply saying the attorneys general of the respective States are empowered and vested with the authority to represent classes of individuals within their States.

The second thing, however, which is the essence of the bill, is that it dispenses with and totally negates and extinguishes the requirements and the effectiveness of rule 23 of the Federal Rules of Civil Procedure; and it is that rule which has been devised after a great many years of experience in the courts with cases of this kind in order to render them manageable and in order to make them come as close as they could to the proposition of qualifying under article III of the Constitution in regard to the requirements for "cause and controversy" and the real party at interest.

In the case that I just described, the New York Stock Exchange case, the court of appeals said that the burden of notice could not be put on the defendant. The idea of serving notice on 6 million people, or even the 2.25 million people, the latter figure being those who could be identified and located, even that would be, under a proper construction of rule 23, a burden that could not be put on the defendant. In order to qualify in the lawsuit, it was held that that burden would have to be met; and it would have to be met, by a process of elimination, by the plaintiffs.

This construction of the Second Circuit Court of Appeals was affirmed by the Supreme Court. But the court of appeals went further, in an opinion by Judge Medina, and discussed the impropriety of "fluid recovery" which had been suggested by the district court as a possible solution to the manageability problem posed by the case.

Here is an excerpt from the opinion by Judge Medina:

Even if amended Rule 23 could be read so as to permit any such fantastic procedure, the courts would have to reject it as an unconstitutional violation of the requirement of due process of law. . . . We hold the "fluid recovery" concept and practice to be illegal, inadmissable as a solution of the manageability problems of class actions and wholly improper.

In the Hotels case, Mr. President, Judge Duniway of the Ninth Circuit Court of Appeals—here there were some 40 million persons on behalf of whom certification was requested, and so on—in that case the question of the propriety of recognizing the possibility that class action suits might be brought in behalf of classes made up of truly aggrieved plaintiffs was discussed. Here is what he said:

It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each "plaintiff."

So, Mr. President, we have this proposition that is involved in the amendment which seeks to do away with that second phase of the pending bill with reference to a suit becoming properly certified and being considered by the court as being within the Federal jurisdiction under which that court proceeds and is the only fashion in which it can proceed. The way to do that, Mr. President, is to adopt this amendment which would reinstate the essential elements of rule XXIII of the Federal Rules of Civil Procedure. Then we will get within that area where, with the proper amount of attention and effort, a case will become qualified as one which can be tried in the Federal court. These grounds, to the extent that I have discussed them, encompass only a small fraction of the authority, but the degree to which I have discussed them I believe sketches the component elements and the vital relevant elements of the proposition which I state to be that, without the adoption of this amendment, there would not be constitutional procedure within article III of the Constitution for any suit brought under that type of law.

Mr. President, I reserve the remainder of my time.

Mr. MORGAN. Mr. President, if all conditions in a trial of a lawsuit were ideal, then I would be willing to accept the amendment of the distinguished Senator from Nebraska, but I think he himself has made the best case against his amendment by pointing out the large numbers of consumers who would have to be notified and the tremendous costs that would be involved.

In his amendment, Mr. President, he provides:

That the court shall order the best notice practical under the circumstances, including . . .

And this is the key word:

including individual notice to all persons on whose behalf the suit is brought who can be identified through reasonable effort.

In other words, one has to make a reasonable effort to identify everyone who bought a tube of toothpaste, if that happens to be the product involved. What

is a reasonable effort? It would make it so expensive, Mr. President, that no one could ever afford to bring a class action.

Notice by publication has been accepted in judicial circles and legal circles of this country for a long, long time and has been considered as adequate notice. The provision in the bill, I believe, is completely adequate. It provides:

In any action brought under this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication.

Which has been an accepted practice for generations.

If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

Mr. President, that vests in the court adequate authority to protect the rights of all individuals.

I believe I could distinguish the many cases that our colleague has cited but, as the President and the Members of the Senate know, my time is limited in the entire debate; therefore, Mr. President, I move to lay on the table the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Ohio (Mr. GLENN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. NUNN), the Senator from Florida (Mr. STONE), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I also announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 49, nays 19, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—49

Abourezk	Hart, Philip A.	Muskie
Beall	Hartke	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield	Pastore
Brooke	Hathaway	Pearson
Byrd, Robert C.	Hollings	Pell
Cannon	Huddleston	Proxmire
Case	Jackson	Randolph
Chiles	Javits	Ribicoff
Clark	Kennedy	Schweiker
Cranston	Leahy	Scott, Hugh
Culver	Magnuson	Sparkman
Durkin	Mansfield	Stafford
Eagleton	Mathias	Stevens
Ford	McGovern	Stevenson
Gravel	McIntyre	
Hart, Gary	Morgan	

NAYS—19

Allen	Curtis	Roth
Bartlett	Fannin	Taft
Brock	Garn	Talmadge
Buckley	Hansen	Thurmond
Burdick	Helms	Tower
Byrd, Harry F., Jr.	Hruska	Young
	Metcalf	

NOT VOTING—32

Baker	Griffin	Moss
Bayh	Humphrey	Nunn
Bellmon	Inouye	Percy
Bumpers	Johnston	Scott, William L.
Church	Laxalt	Stennis
Dole	Long	Stone
Domenici	McClellan	Symington
Eastland	McClure	Tunney
Fong	McGee	Weicker
Glenn	Mondale	Williams
Goldwater	Montoya	

So the motion to table was agreed to.

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. ROBERT C. BYRD. Mr. President, are there any other Senators who wish to call up amendments at this time?

ADDITIONAL STATEMENTS SUBMITTED

Mr. TOWER. Mr. President, proponents of the antitrust bill we are debating today are indeed presenting a convincing case illustrating the need for consumer protection. Here we have a bill which supporters promise will reduce prices, lower unemployment and cut inflation. In reality, it is likely to do none of these things, and may, in fact, have a counterproductive effect. Someone should warn our consumers—the taxpayers, voters, citizens in whose name we govern.

We are not operating in an economist's laboratory; we must form solutions that will work in the real world.

The bill promises to reduce prices. Yet the threat of costy nuisance litigation, treble damage assessments and a lowered threshold for proof of injury will inevitably be passed on to consumers via higher prices.

The bill promises to lower unemployment. It is more likely to impede business financing—threatening expansion and destroying job opportunities.

Similarly, the parens patriae section of the bill is being promoted by exaggerated claims—raising expectations that cannot possibly be realized.

By authorizing State attorneys general to sue for violations, antitrust law enforcement runs the risk of becoming greatly politicized. This would help no one—not consumers, business—no one except politically ambitious attorneys general.

By also allowing private attorneys to bring suits in consumers' names while being compensated on a contingent fee basis, the bill places enforcement of antitrust laws in the hands of private attorneys with personal interests in the litigation. Again, it is not the consumer who will benefit. If anyone, it is the lawyers. The medical malpractice problem—where a rash of suits have brought consumers higher medical fees and have lessened competition by driving out practitioners who can no longer afford to pay the high costs of malpractice insurance—should serve as a warning of things to come if the antitrust bill is enacted.

A final and critical point which I want to see clarified for our constituents is that many of them may not only be the consumers sought to be protected by the bill, but may be those governed by its provisions as well. In many people's minds, antitrust laws are thought to be aimed at multimillion-dollar business corporations.

However, our doctors, lawyers, real estate brokers, architects, engineers, accountants, pharmacists, union members, veterinarians, newsmen and small businessmen should know that this bill would open the door for crippling parens patriae actions against them as well.

People should bear in mind that they could very easily become the targets, rather than the beneficiaries, of this monstrous bill.

Mr. PHILIP A. HART. Mr. President, one of the hazards of life in the Senate is the constant conflict between duty and calendar. All of us agonize over competing priorities and never more so than when we face campaign deadlines in addition to our regular duties.

Senator JOHN TUNNEY faced such a conflict yesterday. Despite a heavy campaign schedule before the California primary next Tuesday, Senator TUNNEY interrupted his plans there to be in the Senate to cast a critical vote to help end the filibuster against the Antitrust Improvements Act.

As a sponsor of the bill, I am very grateful that he could be with us on this vote.

Mr. GARY HART. Mr. President, I am not a member of the Committee on the Judiciary, and therefore have not had the benefit of listening to and questioning the more than 40 witnesses who testified during the very extensive hearings on S. 1284. I am well acquainted with the antitrust laws and their enforcement however, and I offer my support for S. 1284, as reported by the Committee on the Judiciary.

Throughout its history, the United States has relied upon free competition among private business enterprises as the

basic regulator of most economic activity. American economic policy has generally been to promote competition in a free market system. The U.S. belief and experience, according to our courts, is that the "unrestrained interaction of competitive forces" will usually result in "the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." *Northern Pacific Railway Co.* v. *United States,* 356 U.S. 1, 4, 1965.

To insure the vitality of competition in the 20th century, the Congress enacted the major antitrust laws—the Sherman Act in 1890, and the Clayton Act in 1914. Our experience in the following 86 years has shown that the laws are fundamentally sound, but it has also shown that they do not automatically guarantee competition. Nor do they provide in every instance for the successful and efficient prosecution of the very activities banned by those acts.

As a result of many years of effort by the senior Senator from Michigan, Mr. HART, the other hardworking members of the Judiciary Committee, and the committee staff, we now have before us a sensible solution to the problem of antitrust law enforcement.

If we agree that free competition is desirable in our economy, and if we agree that the goal of antitrust law is to maintain and enhance competition, then we must also agree that this pending legislation is vital. All that the bill before us seeks to do is to provide mechanisms for the enforcement of the antitrust laws. It does not change the standards of the law—nothing that is legal today will be illegal upon the enactment of this bill.

Title II of the Hart-Scott substitute enables the Antitrust Division to issue compulsory process to obtain evidence relevant to an investigation prior to the filing of an action. Presently, the Division can only obtain documents from corporations exclusively, which leaves that Division, and the American public, in the patently absurd situation in which the Division must file an action in order to gather evidence to ascertain whether the action should have been filed in the first place.

The need for title II has been stated many times and is clear. It would provide the Antitrust Division with the same basic investigatory tools as those used by virtually every Federal regulatory agency, including the FTC, and many State atorneys general. But does the title strike a fair balance between the rights of possible offenders and third parties and the need for effective and efficient enforcement of the antitrust laws? The answer is an unqualified yes.

There is no practical method now in existence for enforcing the antitrust laws in the cases envisioned by title IV of the Hart-Scott bill—where a violation of the Sherman Act results in a relatively small overcharge on an item consumed by thousands or millions of people every day. Individual actions in these cases are out of the question. And so are class action suits in light of the Eisen decision.

Exactly how do we expect violations of this nature to be deterred? Until now, the Congress has simply relied on the good faith of our corporations. However, one is reminded of the comment of one corporate executive who stated in an interview with Business Week—June 2, 1975:

> When you're doing $30 million a year and stand to gain $3 million by fixing prices, a $30,000 fine doesn't mean much. Fact is, most of us would be willing to spend 30 days in jail to make a few extra million dollars.

If this statement correctly reflects the attitude of the corporate community, the Congress has a clear duty to stop relying on corporate good faith, and to instead begin relying on a mechanism like parens patriae to enforce existing law.

The procedural safeguards contained in the Antitrust Civil Process Act are continued and expanded upon by title II. In fact, a witness need not say one word without the Antitrust Division first convincing the courts of the necessity of the investigation in an adversary proceeding. Also, any person compelled to give an oral deposition may be accompanied by counsel, a protection not presently afforded to grand jury witnesses. And counsel may intervene at any point when he believes a question violates his client's legal rights.

The parens patriae mechanism created by title IV is necessary if the Congress truly desires to deter antitrust violations, prevent violators from retaining illegal profits, and provide compensation to the victims of antitrust offenses. If the opponents of this provision can find a more just solution than the parents patriae concept, I would be delighted to know what it is. But the fact is that no more acceptable solution can be found.

I believe that the States rights aspect of title IV should also be stressed. It will not be some Federal agency thousands of miles away which will be bringing these suits, but the State attorneys general: Attorneys general who are responsible through the electoral process to the people of each State, and not the Federal bureaucracy.

Mr. President, action by the Congress on major antitrust legislation is long overdue. The American people deserve the chance to preserve the free enterprise system. Those who seek to remove the shackles of unnecessary government regulation of business should be the natural supporters of antitrust laws that work—and the Hart-Scott Antitrust Improvements Act will make the antitrust laws work.

AUTHORIZATION FOR STATEMENTS AND INTRODUCTION OF MEASURES UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor, I ask unanimous consent that Senators may have until 5 o'clock today to enter statements into the RECORD and also to introduce bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the distinguished majority leader.

KING JUAN CARLOS I

Mr. MANSFIELD. Mr. President, I had intended to make these remarks earlier in the day. They have to do with the visit of King Juan Carlos I of Spain.

I was much impressed with the King's message to the joint meeting of Congress and continue to be impressed after several sessions with him since that time. I wish to express the hope that the reforms which the King has undertaken in his country will continue to go forward to the end that it will be possible in the not too distant future, and the sooner the better, for Spain to become a member of the North Atlantic Treaty Organization. I have advocated such a policy since my days in the House of Representatives so, in that respect, I do not happen to be a Johnny-come-lately.

I think that the admission of Spain to NATO would strengthen that organization and give a degree of stability to Spain which I think has been lacking, to a certain degree, up to this time.

As far as the Spanish treaty is concerned, it is the intention of the leadership to call it up as soon as it possibly can. The reason it has not been called up to date is due to the fact that the Committee on the Budget has had to consider the financial implications contained therein, as is its duty and responsibility and as it must do in regard to every piece of legislation now being presented for consideration by Congress.

I just wanted to take this opportunity to reiterate my own position on Spain, on my reaction and, I am sure, Congress reaction generally, to his remarks, speeches, and conversations here; reactions which I think, on the whole, have been quite good and very warm. I again express the hope that it will not be too long before Spain will become a member of the North Atlantic Treaty Organization so that she can assume the kind of role which the President envisaged in his conversations and conferences with King Juan Carlos I, and, in that way, bring about a degree of solidity to Western Europe which, at the present time, is sadly lacking.

Mr. TOWER. Will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. TOWER. I commend the distinguished majority leader for a very statesmanlike remark and comment. I wish to associate myself with his remarks. I think it is important to Americans to understand that the democratization of political institutions in a society that has lived under authoritarian rule cannot be accomplished overnight, that they have to be accomplished in an orderly fashion. We would not want to precipitate the type of reaction domestically in Spain that could result in reassertions of simply another form of authoritarianism. I think the remarks made by the Senator from Montana are very helpful, and I hope the Senate will take heed.

Mr. CHILES. Will the Senator yield?

Mr. MANSFIELD. I am happy to yield.

Mr. CHILES. I want to associate myself with the majority leader's fine remarks. I was most impressed with the address by King Juan Carlos. I have also been very impressed by his conduct to date. I think many of us and many people in the world did not know what kind of authority, real or implied, King Juan Carlos would be able to exert. It seems to me that his leadership has been very progressive and that it has done much for developing democracy and freedom for the people of Spain.

I am delighted to associate myself with the majority leader's remarks.

Mr. MANSFIELD. I thank the distinguished Senator.

Both Senators are correct. The King evidently is moving as fast and as hard as he can in the right direction. What he needs is encouragement; what he needs is understanding. I think that the state visit of King Juan Carlos I and Queen Sofia has had the effect of bringing about a better degree of understanding, a recognition of the difficulties which confront the King and his regime, and an understanding, also, that the time is ripe for a changed situation, defensively speaking, insofar as Spain's entrance into NATO is concerned.

Mr. JAVITS. Will the Senator yield?

Mr. MANSFIELD. Yes, I yield.

Mr. JAVITS. I wish to make two points. One, that the New York Times has a very gifted article this morning on the subject and with the leader's permission, I should like to include it in these remarks.

Second, I state to the Senate that tonight the Spanish Institute is giving a very big and I think it should be a very significant and distinguished dinner for the King, especially to signify the support of that Institute. I think it represents the view of much of this country for backing this young king in what is a very risky effort for him but which is so important to the peace and freedom of the world.

I thank my colleague.

Mr. RANDOLPH. Mr. President, will the distinguished leader yield to me?

Mr. MANSFIELD. Yes.

Mr. RANDOLPH. Mr. President, with regard to the cogent comment of our leader and those colleagues who have joined in colloquy, all these remarks are timely and important. They deal with the very critical subjects that are before the American people as well as the peoples of the world, including Spain.

I wish to turn aside from this subject matter, however, to refer to a part of the message of His Majesty, Juan Carlos I, King of Spain, that especially appealed to me. I think when it is read and becomes known by many, many people, as I hope it will be, that the same reaction will be evidenced, as I now express.

He indicated that he, in his own power, or the people of any country in their own power, could not by themselves settle these vexing problems that weigh heavily on us. He spoke earnestly. I watched the expression on his face, as he affirmed his faith in a common Creator.

Let us recall his words:

Freedom is essential for man and for his individual fulfillment. It is an unequaled stimulus for his economic and social progress and for his cultural development. Liberty, above all, is a spiritual good to be cherished and defended. All liberty like all power, comes from God. In affirming today, with humility and simplicity, as your own forefathers did, faith in God, I ask his blessing for your leaders, for your people, and for the noble Nation of the United States of America.

Mr. President, it is essential that in these times of trial and tribulation, we realize that within our own power, we are not sufficient, but that we must, in the final analysis, rely on our God.

Mr. MANSFIELD. I thank the distinguished Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish to call up an amendment this afternoon?

Mr. ALLEN. I have a number of amendments. Is the Senator suggesting that we might go out if no amendments are offered at this time?

Mr. ROBERT C. BYRD. The Senator from West Virginia is suggesting that unless the Senator from Alabama wishes to call up his amendment and get action on it today, the Senator from West Virginia is prepared to move to go out.

Mr. ALLEN. I have no objection to that move. I do want to state, however, that I have about 20 amendments that I have not yet called up.

Mr. ROBERT C. BYRD. I thank the Senator.

Does the Senator wish to call up one now and get a time limitation on that, say, 15 minutes?

Mr. ALLEN. No. I believe the cloture rules furnish the time limitation when I offer my amendment.

ORDER FOR THE RECOGNITION OF SENATOR MORGAN ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, Mr. MORGAN may be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 11 a.m. on Monday. After the two leaders have been recognized under the standing orders, Mr. MORGAN will be recognized for not to exceed 15 minutes. I would recommend to all Senators that they be present because, as we have seen from recent events, live quorum calls can occur very early as can rollcall votes. So I cannot assure Senators, as we sometimes can assure them, that there will not be any rollcall votes before a certain hour on Monday.

I would anticipate rollcall votes at any point after the Senate convenes, and I hope that Senators will be in attendance.

Our target date, may I say, for sine die adjournment this year is October 2. That date might have to be extended depending upon developments. But counting Mondays through Fridays, this means the Senate has only 66 working days left after today in which to complete its business if it is to adjourn on October 2. Of course, it may be necessary to come in on some Saturdays if the workload ahead is heavy.

I ask unanimous consent, Mr. President, to include in the RECORD as part of my remarks at this time a digest of certain measures on the Senate Calendar of Business.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIGEST OF CERTAIN MEASURES ON THE SENATE CALENDAR OF BUSINESS

S. 625.—Emergency Unemployment Health Benefits Act. The bill provides health insurance benefits to each individual who is unemployed and who is entitled to receive weekly unemployment compensation and who, if still employed, would be covered under an employer-sponsored health insurance plan. Benefits would be paid also to the dependent spouse and each dependent child of such individual. The Secretary of HEW is authorized to enter ino arrangements with carriers and State agencies to carry out the provisions of the bill.

H.R. 7727.—Amends the Tariff Schedules of the United States to extend for an additional 2 years, until June 30, 1978, the existing suspension of duties on specified classifications of silk yarn.

S. Res. 302.—An original resolution to establish a Select Committee of the Senate on Improper Activities in the Labor or Management Field. The Committee is directed to study and investigate the extent, if any, to which illegal and unethical activities are engaged in by persons in the field of labor-management relations.

It empowers the Committee with authority necessary to carry out the provisions of the resolution, limits the expenses of the Committee to $1,250,000 through December 31, 1976 and requires the filing of a final report no later than December 31, 1976.

S. 999.—A bill to designate as the J. Allen Frear Building, the Federal office building located in Dover, Delaware.

S. 422.—Children and Youth Camp Safety Act. It requires the Secretary of HEW to develop regulations on children and youth camp safety standards and submit them to the Senate and House Labor Committees for consideration. States are allowed to submit similar plans for approval. The Secretary is required to designate a State agency to administer plans, to provide for legal authority and enforcement, and to review State plans on an annual basis. It authorizes grants of up to 80 percent of the costs of States in carrying out such plans.

S. 2752.—The bill divides the fifth judicial circuit into eastern and western divisions. Alabama, Florida, Georgia, Mississippi, and the Canal Zone are the eastern division. Louisiana and Texas are the western division.

The President is to appoint three additional judges for the eastern division and five additional judges for the western division.

S. Res. 325.—The original resolution adds a new rule XLV to the Standing Rules of the Senate. It would prohibit Senators and employees of the Senate from accepting a gift of travel from any foreign government without the express consent of Congress.

S. 2773.—Amends the Dwight D. Eisenhower Memorial Bicentennial Civic Center

Act to change the name of the "J. Edgar Hoover F.B.I. Building" to "F.B.I. Building."

H.R. 9432.—An Act to amend the Internal Revenue Code of 1954 to provide for quarterly rather than annual payment to the government of the Virgin Islands as is now provided in the Code.

The payments shall be equal to the internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

S. 2804.—A bill to amend Title IV of the Social Security Act. It establishes as a condition of eligibility for benefits under the aid to families with dependent children program an individual's participation in the work incentive program of States which offer aid to families with dependent children.

It provides that the Secretary of Labor shall notify the State agency which administers the plan of any refusal by an individual to participate in the State employment program.

H.R. 71.—The bill would provide hospital and medical care to U.S. citizens who served with the armed forces of nations allied or associated with the U.S. in World War I or II. Present law covers only those who were members of U.S. forces.

It would apply to those who were with the British Royal Air Force, for example, or the Polish resistance. Citizens who served with allied nations would be treated only on a space available basis with U.S. veterans given priority.

S. 3219.—(Clean Air) Requires States to submit plans for prevention of significant deterioration of air quality in clean air regions, subject to the approval of the EPA administrator. It establishes guidelines for classification of those regions and imposes limitations on projected increases in concentrations of particulate matter and sulfur dioxide for each class of such regions. And it requires that new sources constructed in such regions utilize the best available control technology and certify that emissions from the facility will not contribute to a cumulative change in ambient air quality greater than the appropriate limits.

S. 1624.—Interstate transportation of wine. To eliminate obstructions to free flow of commerce resulting from discriminatory and unreasonable taxes or regulations affecting wine.

Prohibits any State which permits transportation or importation of wine from applying tax measures, regulations, and other measures against wines produced outside that State unless applied in same manner as to wine of same class in State seeking to impose tax or regulation. States still retain control over purchase, sale, and distribution of wines in State jurisdiction.

S. 2477.—Lobbying—Requires broad public disclosure of the efforts of individuals and organizations paid to influence or attempt to influence issues before the Congress or the Executive Branch without interfering with the right of citizens to petition the government for redress of grievances.

Covers communications or lobbying solicitations to Congress or the Executive Branch which may be expected to reach 500 or more persons.

Reports must be filed with the Comptroller General on a quarterly basis.

S. Res. 436.—Expresses the support of the Senate for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address at Lusaka, Zambia, on April 27, 1976.

S. Res. 68.—To amend Rule XVIII of the Standing Rules of the Senate. Declares that at any time during the consideration of a bill or resolution in the Senate, it shall be in order to move that no amendment which is not germane or relevant to the subject matter of the bill or resolution shall thereafter be in order.

Any such motion must be agreed to by the affirmative vote of two thirds of the Senators present and voting.

S. 12.—To provide benefits for survivors of Federal Judges. Provides that judicial officials are entitled to the same survivor annuity benefits as survivors of Members of Congress with specified limitations and that a survivor shall not be prohibited from simultaneously receiving an annuity under this act and any other annuity to which the survivor may be entitled.

S. 1284.—Improvement and enforcement of the antitrust laws. It would revise discovery procedures and requirements for antitrust investigations; increase civil penalties for failure to file reports or obey subpoenas as required by the Federal Trade Commission Act; and permits the Attorney General of a State to initiate civil action to recover damages on behalf of certain classes of persons or the State for injuries resulting from violation of Federal antitrust laws.

Also requires premerger notification in order to prevent acquisition of stocks or shares or assets of another person or persons if the acquiring person or persons' assets or net sales exceed certain limitations, until 60 days after filing of the notification of merger with the Department of Justice and the Federal Trade Commission.

H.R. 11559.—This bill authorizes an appropriation of $6,470,000 for fiscal year 1977 to carry out programs under the Saline Water Conversion Act of 1971.

H.R. 366.—(Substitute text of S. 230) *infra.*

S. 1776.—Authorizes the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, not to exceed 3,500 acres. Also authorizes appropriation of necessary funds.

H.R. 13069.—An act to extend for one year (until September 30, 1977) the period for making loans to the unemployment fund of the Virgin Islands and increases the authorized funds by $10,000,000.

H.R. 5360.—An act to increase detention benefits provided to American civilian internees in Southeast Asia from $60 per month to $150 per month under the War Claims Act of 1948.

S. 2837.—A bill to amend the Act of August 30, 1890, so as to except a tract of ground located in Carbon County, Wyoming from canals imposed on such land.

S. 972.—Public Safety Officers Memorial Scholarship Act. Authorizes the U.S. Commissioner of Education to award a scholarship to any eligible applicant for full time undergraduate study at an eligible institution. An applicant must be certified by the head of the agency which employed the Public Safety Officer as a dependent of that Officer who was the victim of a homicide while engaged in the performance of his official duties.

H.R. 8532.—Anti-trust. An act to authorize the Attorney General of any State to bring civil action charging unlawful monopoly practices under the Clayton Act and to recover damages for any injury to the general economy of the State or any political subdivision.

The U.S. Attorney General is directed to notify States' Attorneys General of any instances where States are entitled to bring action for violations of the act.

S. 3424.—A bill to minimize the use of energy in housing, nonresidential buildings, and industrial plants through State energy conservation implementation programs and Federal financial incentives and assistance.

S. 230.—Public Safety Officers Group Life Insurance Act. Authorizes the purchase of group life insurance policies to insure any public safety officer employed on a full time basis by a State or local government which has applied to participate in the program and has agreed to deduct from officers' pay the premiums payable for coverage.

Eligible insurance companies must be licensed in all 50 States and the District of Columbia and have in effect at least 1% of the total amount group life insurance in effect in the United States.

The act provides that each policy issued shall include a schedule of basic premium rates and for any adjustments. The act also sets forth the order of precedence in which survivors of officers will be awarded benefits.

An Advisory Council established by the bill and the Attorney General would meet at least once annually to review the Administration of the Act. The sum of $20,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977.

H.R. 5465.—An act to allow Federal employment preference to employees of the Bureau of Indian Affairs of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of Federal laws allowing employment preference to Indians. The act defines eligible employees.

H.R. 11439.—An act to amend Title 5, U.S. Code, to restore eligibility for health benefits coverage to certain individuals. It would permit a surviving spouse whose civil service annuity was terminated due to remarriage to enroll in a civil service health benefits plan upon restoration of such spouse's annuity if the spouse was covered by a health benefits plan at the time the annuity was terminated.

H.R. 11481.—An act to authorize the appropriation for the Department of Commerce for the Fiscal Year 1977: (1) $403,721,000 for obligations incurred for operating differential subsidy; (2) $19,500,000 for research and development activities; (3) $4,560,000 for reserve fleet expenses; (4) $13,260,000 for maritime training at the Merchant Marine Academy; and (5) $3,741,000 for financial assistance to State Marine schools.

Authorizes additional appropriations for personnel, maintenance, and other expenses of the Merchant Marine Academy.

S. 3267.—A bill to amend the Motor Vehicle Information and Cost Savings Act to add a new title (Research and Development) to the act. The purpose is to encourage development of advanced automobiles designed to meet long-term goals relative to fuel economy, safety, environmental protection and to facilitate competition in development of existing and alternative automotive vehicles and components.

The Secretary of Transportation is authorized to make contracts and grants and other efforts to achieve the objectives of the bill. It authorizes the appropriation of up to $175,000,000 to pay interest on obligations and the principal balance of obligations, guaranteed by the Secretary when the obligor has defaulted.

Annual reports to Congress are required by the bill.

S. 1632.—A bill to authorize the Energy Research and Development Administration to initiate programs and enter contracts for the purpose of developing and producing significant numbers of urban passenger and commercial vehicles utilizing electric propulsion systems.

Authorizes an appropriation of $40,000,000 for each of the Fiscal Years 1976, 1977, and 1978.

S. 2228.—A bill to amend the Public Works and Economic Development Act of 1965 by extending the authorizations for appropriations for an additional three years until September 1979.

S. 3281.—Federal Program Information Act. It creates an information center to establish and maintain a computerized system capable of identifying all existing Federal domestic assistance programs. Identification should be sufficient to allow a prospective beneficiary to determine whether personal qualifications meet requirements for eligibility.

Requires publication of an annual catalogue of domestic assistance programs.

S. 2304.—Prohibits member banks of the Federal Reserve System from making loans or extensions of credit to any of their officers, directors, or other specified persons who have an interest in such bank where such loans or extension of credit exceeds statutory limits on loans to one borrower. The prohibition is extended, under the Federal Deposit Insurance Act, to non-member insured banks. Directors, officers, employees, and agents, and insured banks are subject to cease-and-desist proceedings and orders. Civil penalties for any violations are established.

S. 1926.—A bill to amend the Public Health Service Act so as to eliminate the requirement that health maintenance organizations offer annual open enrollment for individual membership, and makes the offering of supplemental health services optional.

It includes State and local government employers among those who must offer employees the option of membership in a health maintenance organization.

Extends authorization of appropriations an additional two years.

S. 3369.—An Act to amend the Small Business Act to increase the authorization for loans for specified small business loan programs including: (1) displaced business disaster loans; (2) loans for the handicapped; (3) the small business investment company program; and (4) loans to State and local development companies.

It increases authorization for loans in urban or rural areas having high proportion of unemployed or low-income individuals, or to businesses owned by low-income individuals.

S. 3370.—A bill to amend the Small Business Investment Act of 1958 by increasing the authorization for the Surety Bond Guarantee Fund by $53,000,000 (from $35,000,000 to $88,000,000).

S. 2212.—A bill to amend the Omnibus Crime Control and Safe Streets Act. Provides that any unused funds reverting to the Law Enforcement Assistance Administration may be reallocated among the States. Grants to States may be used to devise methods to strengthen the court system.

LEAA may waive State liability and pursue legal remedies where a State lacks proper forum to enforce grant provisions imposing liability on Indian tribes. Permits LEAA to increase grants to Indian tribes under certain conditions.

S. 3165.—A bill to establish the Office of Marine Resources, Science and Technology within the National Oceanic and Atmospheric Administration. The purpose is to initiate long term research and development programs in marine science and technology. An advisory service would impart useful information and techniques to interested organizations and individuals. Programs would be submitted to the Congress and the President and annual reports would be submitted to the Congress by the Secretary of Commerce.

The bill also establishes a National Sea Grant program for research, education, training and advisory services in ocean and coastal resource development, assessment and conservation.

S. 2069.—A bill to create a Consumer Controversies Resolution Act to assure consumers a mechanism which is fair, effective, inexpensive and expeditious. It directs the Federal Trade Commission to establish a Bureau of Consumer Redress. The FTC shall perform various duties including allocation to States of funds appropriated for financial review of each State's plan for resolution of consumer controversies; and evaluation of goals for a model State System of Consumer Controversy resolutions.

The bill authorizes an appropriation not to exceed $500,000 for Fiscal Year 1976 and $20,000,000 for Fiscal Year 1977.

S. 3131.—Amends the Rail Passenger Service Act by authorizing the National Railroad Passenger Corporation to establish a through route and rate with qualified motor carriers. It authorizes appropriations through Fiscal Year 1978 to the Secretary of Transportation for the benefit of the Corporation: (1) to meet specified expenses; (2) for capital acquisitions and improvements; and (3) for the payment of the principal amount of obligations of the Corporation.

S. 2323.—National Traffic and Motor Vehicles Safety Act of 1966. The bill authorizes appropriations of $13,000,000 for the fiscal year 1976 transitional period, $60,000,000 for the fiscal year 1977, and $60,000,000 for fiscal year 1978.

S. 3119.—Federal Railroad Safety Authorization Act. The bill would require any common carrier to provide its employees with sleeping quarters having controlled temperatures and located away from areas where switching and other disturbing operations occur, It forbids any crew members of wreck or relief trains from working 16 consecutive hours in any 24 hour period. It sets forth required safety procedures for protection against following or oncoming trains, and for employees working on, under, or about an engine, car, or train.

It divides the Federal Railroad Administration into ten regional offices for administration and enforcement of Federal railroad safety laws.

S. 2184.—A bill to authorize the Secretary of Commerce to participate in the organization, planning, design and construction of facilities in connection with the 1980 Olympic Winter Games at Lake Placid, New York. It authorizes an appropriation of $50,000,000.

H.R. 11670.—An Act to authorize specified appropriations for the Coast Guard for fiscal year 1977 for vessels and aircraft procurement and for facilities construction. The Act would authorize a year-end strength for active duty personnel and establish average military student loads for fiscal 1977.

S. 2150.—Solid Waste Utilization Act. It directs the Administration of the Environmental Protection Agency to provide financial assistance to each State to: (1) assist in developing a State solid waste management plan; (2) assist the State in the administration of the program; and (3) develop, implement, operate, and enforce State programs for the control of hazardous waste disposal.

The Administrator must develop and implement guidelines and implementation of programs for disposal of solid or hazardous wastes.

Appropriations authorized to the Secretary of Commerce for purposes of the Act are $20,000,000 for each of the fiscal years 1976, 1977, and 1978, and $5,000,000 for the fiscal transitional period ending September 30, 1976.

S. 3037.—Federal Water Pollution Control Act. A bill to authorize the appropriation of seven billion dollars for fiscal year 1977 for the construction of waste treatment works.

S. 3437.—Federal Water Pollution Control Act. An original bill to authorize certain appropriations for the purpose of carrying out the provisions of the Act.

Sections of the Act affected, in brief, are 104(u), 105(h), 107(e), and 113(d).

S. 3438.—Clean Air Act. Section 104(c) of the Act is amended by the authorization of an appropriation of $148,194,700 for the fiscal year ending September 30, 1977.

S. 2872.—Federal Energy Administration Act of 1974. The bill extends the expiration date of the Act to September 30, 1979. It revises requirements for conflicts of interest, disclosure of information and record keeping under the Act. The Federal Energy Administrator shall be afforded an opportunity to comment upon proposed Environmental Protection Agency regulations affecting energy exploration and development.

S. 3439.—(Unfinished Business) Foreign Assistance Act of 1961 and the Foreign Military Sales Act.

H.R. 3650.—A bill to amend Title 5, United States Code, section 8344. It provides for the termination of Federal Civil Service Annuity payments upon the reemployment of specified employees. It further provides for termination of payments upon reemployment on part-time basis for periods equivalent to at least one year of full-time service. And, it provides for termination of payments to annuitants appointed by the President to specified positions covered by civil service retirement.

S. 3105.—Energy Research and Development Administration. The bill authorizes appropriations of certain sums for the following purposes: (1) $4,935,362,000 for nuclear energy research and development, and other purposes; (2) 0812,550,000 for non-nuclear research and development and other purposes; (3) $612,408,000 for environmental research and safety, and basic energy sciences, and for other purposes.

The bill amends prior appropriations acts to increase amounts authorized for specific energy research projects and extends authorizations through fiscal 1977.

S. 2657.—Higher Education Act of 1965 and Vocational Education Act of 1963 Amendments. The bill extends the Higher Education Act until October 1, 1982 and revises provisions dealing with grants and loans to students and regulations thereof, and repeals sections relative to attracting and qualifying teachers to meet teacher shortages.

It extends the Vocational Education Act until October 1, 1982 and provides for assistance to States to improve methods for using every available resource for vocational and manpower training. Requires establishment of State boards for vocational education in States desiring to participate in the program.

Establishes procedures for States and State boards to apply for funds, submit program plans, and maintain proper fiscal control of funds received.

Establishes various levels of educational and vocational responsibility under the U.S. Commissioner of Education and authorizes appropriations necessary to carry out the provisions of the bill.

H.R. 12987.—A bill to authorize appropriations of sums necessary for fiscal year 1976 and for the transition period ending September 30, 1976 to carry out the purposes of Title VI of the Comprehensive employment and Training Act of 1973.

An emergency job program extension—it requires that not less than 85 percent of the funds for public service employment programs be used only for wages and employment benefits, with the remainder of such funds to be available for administrative costs, supplies, and equipment.

H.R. 9019.—A bill to extend appropriations under the Public Health Service Act for loans and loan guarantees by the Secretary of HEW for health maintenance organizations.

The amount dispursed to a health maintenance organization in any fiscal year is not to exceed $1,000,000.

Employers of not less than 75 individuals are to offer as part of any health benefits plan the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in service areas in which at least 25 of such employees reside.

H.R. 5546.—Public Health Service Act Amendments. A bill consisting of nine titles

and authorizing appropriations necessary to carry out its provisions for fiscal years 1976, 1977, and 1978, for the following general purposes: (1) grants for trainees, construction, loan guarantees and interest subsidies, financial distress and scholarship grants; (2) training requirements for physician assistants, nurse practitioners, etc. and bars against discrimination; (3) construction of teaching facilities for medical and health personnel; (4) sets limits on student loans; (5) grants to health profession schools; (6) special project for medical and dental schools; (7) grants for graduate programs in health administration; (8) restrictions on first year medical residency training programs; (9) Secretary of HEW to contract or arrange for studies relative to the distribution of physicians geographically; to classify allied health personnel; to identify costs in each classification and shortages of critical personnel.

S. 3239.—Health Professions Educational Assistance Act. The bill amends the Public Health Service Act to extend appropriation authorizations for specified medical training and education programs through Fiscal Year 1977.

The bill, consisting of 15 titles provides, in general, for the following:

(1) Extension of current authorities through Fiscal Year 1977;

(2) Recruitment of health personnel speaking language of local population;

(3) Establishes limits, conditions, eligibility, and insurance requirements for student loans;

(4) Directs Secretary of HEW to designate health manpower shortage areas, to provide health services to such areas, and to submit annual reports to Congress;

(5) Establishes post graduate physician training relating to geographic needs of physicians in certain specialties;

(6) Restricts alien immigration of foreign medical school graduates who come to the U.S. principally to perform medical services, as well as medical professionals who were granted visitor status while attending U.S. health professional schools;

(7) Develop standards for State licensing of physicians and dentists, and for continuing education programs for doctors and dentists;

(8) Prohibits grants to medical, dental, and other health schools unless certain conditions for enrollment, Federal aid, and other qualifications are met;

(9) Directs Secretary of HEW to make annual grants to schools of Optometry, Pharmacy, Podiatry, and Veterinary medicine;

(10) Directs Secretary of HEW to make annual grants to public or non profit private educational institutions to support graduate health programs;

(11) Directs Secretary to make grants for allied health programs: administrators, supervisors, etc.;

(12) For special project grants and contracts in beginning, or related, or special areas of health education;

(13) Occupational health training and education centers;

(14) Construction of primary health care teaching facilities;

(15) Miscellaneous grants by the Secretary.

S. 2548.—Emergency Medical Services Amendment. A bill to revise provisions of the Public Health Services Act relative to emergency medical service systems including: (1) grants and contracts for establishment and operation; (2) grants and contracts for improvement; and (3) grants and contracts for research in emergency medical techniques.

The bill authorizes an appropriation of $5,083,000 for grants during the transitional quarter ending September 30, 1976, and for additional funds through Fiscal Year 1979.

H.R. 3348.—A bill to amend Title 38 of the United States Code, sections 5054 and 5055, for the purpose of continuing and improving the exchange of medical information between the Veterans' Administration and the medical community.

S. 2035.—Nuclear Fuel Assurance Act. A bill to authorize the Energy Research and Development Administration to enter into arrangements with private enterprise for the production and enrichment of uranium, for technical assistance, for acquisition of equity in such enterprise, and for other purposes.

S. 2661.—Independent Safety Board Act Amendments. The bill directs the Board to prohibit the disclosure of information obtained from an investigation of an aircraft accident or incident when conducted by a foreign state unless the state which conducted the investigation authorizes such disclosure.

S. 3091.—A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974. It directs the Secretary of Agriculture to provide for public participation in the formulation and review of proposed land management plans for units of the National Forest System and to establish procedures for developing such land.

The bill authorizes the Secretary to appraise and sell trees and other forest products in accordance with the principles of the Multiple Use and Sustained Yield Act and repeals the prohibition against sale of forest products outside the State in which the timber is located.

S. 3422.—The Natural Gas Act repeals authority of the Federal Power Commission to regulate the sale of new natural gas sold to a natural gas company for resale in interstate commerce. Producers are prohibited from charging more for natural gas than the applicable ceiling prices.

For a period of seven years from the date of enactment of S. 3422 interstate pipelines are prohibited from paying more than the "onshore price" for new natural gas produced from onshore lands.

The bill continues cost-based regulation under the existing Natural Gas Act for all old gas which is all the flowing and dedicated gas for the interstate market that is not eligible for treatment as new natural gas.

New natural gas is defined as gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas produced from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available after the expiration of short term or emergency contracts.

S. Res. 448.—An original resolution. The purpose is to express the hope of the Congress for the early restoration of peace in Lebanon, and also to express the willingness of the United States to assist in Lebanese relief and reconstruction.

H.R. 8948.—A bill to amend the Accounting and Auditing Act of 1950. It directs the Comptroller General of the United States to make audits of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms. The Comptroller General is required to report annually to the Congress on the results of such audits.

S. 2849.—A bill to amend the Investment Advisers Act of 1940. It authorizes the Security and Exchange Commission to establish standards for investment advisers and associated persons relative to training, experience, competence and other appropriate qualifications. The SEC is authorized to promulgate rules and regulations in the public interest to protect investors, to create advisory committees, employ experts, and hold public hearings.

S. Con. Res. 105.—A resolution expressing the sense of the Congress that the United States reaffirms a sympathetic interest in Italian democracy and democratic institutions. It expresses the sense of the Congress that the United States is willing to participate in efforts to provide assistance to Italy through the proposed OECD Special Financing Facility with the assistance of other friends and allies of Italy.

S. 3084.—A bill to amend the Export Administration Act of 1969 so as to extend for three years the authority granted under the Act to regulate exports.

S. 2343.—A bill to amend the Communications Act of 1934 by increasing the maximum fines which may be imposed on an individual for violations of FCC regulations.

S. 3063.—A bill to designate the Ozark Lock and Dam on the Arkansas River as the Ozark-Jeta Taylor Lock and Dam.

H.R. 12169.—A bill to amend the Energy Policy and Conservation Act. It authorizes appropriations for Federal Energy Administration functions for which no specific authorization exists in law, and limits aggregate appropriations to the Administration to $1,000,000,000 and etxends FEA authority through fiscal 1979. The bill revises provisions of the Energy Policy and Conservation Act relating to unfair and deceptive trade practices, Presidential requests for Congressional action, and motor vehicle fuel economy standards. It revises penalty provisions for violations of pricing regulations under the Emergency Petroleum Allocation Act of 1973.

Mr. ROBERT C. BYRD. I think I will also say long daily sessions, without prior notice, working into the evenings may also be required from time to time.

The distinguished majority leader has reminded me that, fortunately, the Senate has been able to carry on its work this year without having to come in on Fridays in several instances, but he also has reminded me that in view of the relatively short time remaining in which to do our work prior to October 2, if we meet that target date, the leadership advises Senators to count on Friday sessions from here on out.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MANSFIELD. For the information of the Senate—this is only a small part of the program remaining—it is hoped that this month we will be able to dispose of the foreign arms aid bill, which is the unfinished business, and which automatically will follow the pending business unless unanimous consent is granted.

Then we have the gas deregulation bill which is of great interest to a great many Senators. It will entail some debate, perhaps more than anticipated at this time.

Then we have the Clean Air Act which, too, will take some time; and toward the middle of this month it will be the intention of the joint leadership to take up the tax reform bill because attached to that is a time certain under which action must be undertaken one way or the other, and that time certain is June 30. So those are four of the most significant items.

There are scores of others on the calendar which must be attended to at some time. There will be other legislation coming out and, to reiterate, we will take up the Spanish treaty as soon as we can after the Budget Committee completes its findings and gives us the report.

I thank the distinguished Senator.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. The Senator spoke of possible quorum calls and votes on Monday. I would like to comment that I feel the present system under which we seem to be operating, of having all quorum calls go live, has speeded up the work of the Senate. There has only been one quorum call today put in by the distinguished assistant majority leader, and I think the Members of the Senate, realizing that a quorum call is going to go live, causes them to come over to the Senate Chamber when a quorum call is called.

I believe instead of having 20, 25, or 30 quorum calls a session, we are now having only one or two, and I believe this has speeded up the work of the Senate, and I am glad the distinguished assistant majority leader is now following that policy. [Laughter.]

Mr. ROBERT C. BYRD. Well, my distinguished friend is overly charitable today in his compliments, but I had sought earlier today to call off that quorum call but the distinguished Senator from Alabama, noting that in his judgment I undoubtedly was seeking to call off the quorum call for a very worthy purpose, went ahead to object to the calling off of the quorum.

Mr. President, I hope that both cloakrooms will notify their respective clientele that rollcall votes are expected early on Monday, and by early I mean as early as very shortly after 11 a.m., and that a long working day is in prospect for Monday.

RECESS TO MONDAY, JUNE 7, 1976, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock on Monday morning next.

The motion was agreed to; and at 2:28 p.m. the Senate recessed until Monday, June 7, 1976, at 11 a.m.

EXTENSIONS OF REMARKS

CONGRESSIONAL BICENTENNIAL SALUTE TO THE FIRST UNITED METHODIST CHURCH OF PASSAIC, N.J., UPON ITS CENTENNIAL CELEBRATION IN MEMORIAM TO THE LATE REVEREND MISS ANNA OLIVER, ITS FIRST LADY PASTOR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ROE. Mr. Speaker. On Sunday, June 6, the residents of the city of Passaic, my Eighth Congressional District, State of New Jersey, will join with the congregation of the First United Methodist Church in commemorating the 100th anniversary of its founding and memorializing the services of a former pastor and first woman to receive a full theological degree, the Reverend Miss Anna Oliver.

This is indeed a most historic occasion and I know you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to Rev. Kenneth L. Smith, the esteemed pastor, and all of his parishioners on this most joyous and noteworthy memorial observance.

As we celebrate our Nation's Bicentennial and reflect upon the history of our country and the good deeds of our people which have placed America in the highest position of preeminence as a representative democracy, second to none, among all nations of the world, with your permission, I would like to insert at this point in our historical journal of Congress a brief history of this most esteemed church, as follows:

EXCERPT OF HISTORY OF THE FIRST UNITED METHODIST CHURCH, COMPILED BY HISTORICAL COMMITTEE, WILLIAM T. SMITH, CHAIRMAN

This year, 1976, is a year of very significant importance to our Church in Passaic as 1976 encompasses both bicentennial and centennial history. The name of our present church, the First United Methodist Church, dates from the merger of the Methodist Church and the Evangelical United Brethern Church in April, 1968. Prior to that date our church was called the First Methodist Church of Passaic when the three major branches of the Methodist Church joined in 1935. Then, when we go back one hundred years, our church was named the First Methodist Episcopal Church. Preceding the centennial year, 1976, our Church was named St. George's Methodist Episcopal Church. And in its origin, it was called just the Methodist Episcopal Church of Acquackanack landing.

In the year 1843, a Sunday School was started in the Tap House On The Hill and, while the Tap House no longer exists, the site on which it was located is the area known today as Passaic Park. A year later, in 1844, a small Methodist Church was built on the west side of River Road and this church building remained adequate until the construction of the railroad which changed the area from a river-oriented community to one which was railroad oriented. The river no longer was the center of activity and people started moving to areas along the route of the railroad.

In 1865, the land on which the church stood, about two hundred feet north of the Erie Railroad bridge, was sold and the church was dismantled and moved piece by piece to the corner of Howe Avenue and Prospect Street. Dr. John M. Howe, a leading doctor and businessman of Passaic, had donated the property and took over the pastorate of the new church. But it was not very long before the church was too small for the growing congregation and it was decided to erect a new church. In 1870, Dr. Howe deeded a lot to the church on the corner of Bloomfield Avenue (now Broadway) and Gregory Avenue. The old church building was sold to the city and it became Passaic's City Hall, Fire Headquarters, Police Headquarters, and the office of the City Clerk. The building was used by the city until 1892 when the new City Hall was ready for occupancy. The old wooden church building then was used for cake-walks and primaries, except on Sundays when a Holland congregation worshipped there. In 1897, it was torn down to make room for the new Municipal Building.

Soon after 1870, plans for the new stone church began to take on monumental proportions. The Rev. George H. Whitney and the building committee were told to build a church worthy of Methodism and one large enough to fulfill the needs of the growing congregation. On September 4, 1871, the cornerstone was laid and on November 2, 1873, the church was dedicated as St. George's Methodist Episcopal Church.

It was a stupendous undertaking; the Methodists had erected a building which was considered the best one in the District, but the escalating costs had risen to well over $70,000 instead of the $30,000 as originally estimated by the architect. On September 20, 1873, about six weeks before the dedication, there was a critical financial crisis in the country; St. George's would feel the effect for the next three years. Within that period the people tried to raise money to keep their church operating. Dr. Howe donated over $30,000—the ladies held fairs and festivals—lecture series were started—concerts were given—but nothing would stem the foreclosure that loomed overhead.

The ladies held "necktie and apron suppers" to raise money, but to no avail.

In March, 1876, three parcels of property owned by St. George's were sold by the sheriff for back taxes—two pieces of property were sold for unpaid taxes of $7 each, one for unpaid taxes of $12, and for the unpaid tax of $100.00.

And then came July 4, 1876, a most important day for our country and also for our Church. The only official centennial celebration in Passaic was held in St. George's.

In August, the foreclosure procedure forced a new church society to be formed, and on August 17, the First Methodist Episcopal Church came into existence.

On September 17, with only fifteen people in the congregation, there appeared in the pulpit, fresh from theological school, the Rev. Anna Oliver. Her theme for the sermon as "Singleness of Aim." The financial pendulum finally began to swing and soon the church began to prosper. Concerts were given, lecture series were started and in the early part of 1877, the Rev. Anna Oliver called as her assistant the black evangelist, Miss Amanda Smith. The floating debt of $3,000 was soon reduced, the back interest on the mortgage was paid, and all running expenses were covered. The church had been built with a seating capacity of 800 but at times there were 1,000 persons crowded into the church. The First Methodist Episcopal Church of Passaic was indeed prospering; prospering so much that, as was the custom of the time, the pews were being rented, sometimes for as much as $5 to $50 each. This prosperity was readily noted by the next Conference and they then appointed another regularly-ordained pastor, the Rev. James R. Bryan.

During the course of our church history we have had fifty pastors. Since 1876, we have seen many changes in our Church; most changes have been very rewarding but some changes were most devastating. The most drastic change was the loss through fire of the old stone church on January 31, 1954. But, like the phoenix of Egyptian mythology, our church rose again. Under the guidance of the Rev. Gustave A. Stark, we secured a new building site, a new church building, new interests and new goals.

And now we come to the bicentennial of our country and the centennial of our re-organized Methodist Church in Passaic under